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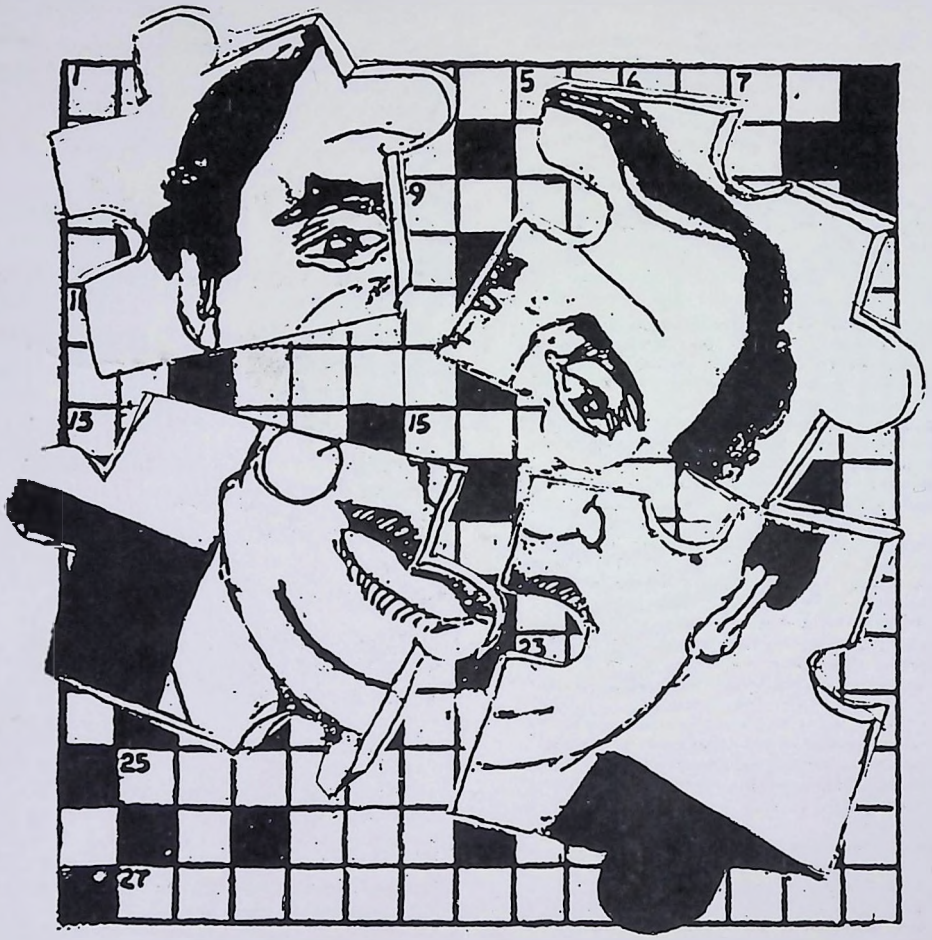
DECODING LEON BRITTAN



JUDGING WOMEN FAMILIES OUTSIDE INQUESTS IN NORTHERN IRELAND

TOWARDS A NON-CRIMINAL JUSTICE BILL PRISON FILMS – 'The Exterminators of Joy'

incorporating Prison Briefing • Inquest • Women In Prison

RAP

Radical Alternatives to Prison,
BCM Box 4842, London WC1N 3XX.

1. RAP is a pressure group working towards the abolition of imprisonment. We do not believe that imprisonment is a rational, humane or effective way of dealing with harmful behaviour or human conflict. We believe that it functions in a repressive and discriminatory manner which serves the interests of the dominant class in an unequal society – whether capitalist or 'socialist'.

Most people in prison are there for crimes which are a response to the frustrations of their social and economic position. Capitalism creates its own 'crime problem', and no amount of tinkering with the penal system will solve it.

We recognise that there will be no possibility of abolition without fundamental changes in the social order. We also recognise, while working *towards* abolition, that it may never be fully attained. There may always be some people whose behaviour poses such a threat to others that their confinement is justified; we cannot tell. There are some such people in prison now but they are, without doubt, a very small minority of the prison population.

2. A capitalist state cannot do without imprisonment, but it can make do with very much less of it than ours does, as other countries, notably the Netherlands, have shown. RAP supports measures to reduce the prison population by means of:
- an end to prison building;
- legislation to cut maximum sentences;
- decriminalisation of certain offences, such as soliciting and possession of cannabis;
- an end to the imprisonment of minor property offenders, and of fine and maintenance defaulters.

3. The introduction of 'alternatives' like community service orders and intermediate treatment has not stopped the prison population from rising, but has increased the scope for interference by the State in people's lives. We do not deny that some good things have been done in the name of alternatives within the penal system, but we hold no brief for them. What we do support are 'radical alternatives' which are, as far as possible, non-coercive, non-stigmatising and independent of the State.

4. Many prison reforms amount to a sugar coating on a toxic pill. But while prisons remain, some features of our present system can and should be done away with, in particular:
- secrecy and censorship;
- compulsory work;
- the use of drugs to control prisoners;
- solitary confinement (by whatever name);
- the system of security classification.

These demands are largely satisfied by the Special Unit at Barlinnie Prison, which has shown what can be achieved by a less authoritarian and restrictive approach.

5. Many of RAP's medium-term goals are shared by other groups who do not share our political outlook. But RAP's fundamental purpose is, through research and propaganda, to educate the public about the true nature, as we see it, of imprisonment and the criminal law; to challenge the prevailing attitudes to crime and delinquency; and to counter the ideology of law-and-order which helps to legitimate an increasingly powerful State machine.

The main themes of this issue are the ways in which sexism and racism impinge on the penal system; but there is another theme which, as we go to press, has become urgently topical: the treatment of life-sentence prisoners. According to the *Guardian* (18.7.83), 'A plan for mandatory minimum 20-year sentences for murderers, with the possible exception of those convicted of crimes of passion, is likely to be announced by the Home Secretary after the Conservative Party conference in October'. (This evidently means 20 years' 'real time', the equivalent of a 60 year sentence with the possibility of parole.) 'Other stronger penalties for convicted murderers believed to be still under consideration include a tougher prison regime.'

One of RAP's main concerns in recent years has been to document the crushing effects of very long periods of imprisonment under the existing, very 'tough', regime, and to support the humane alternative pioneered by the staff and prisoners at the Barlinnie Special Unit. This issue of *The Abolitionist* includes an interview with Peter Adams, released last year after 'only' 17 years of a life sentence.

If the *Guardian* is right, RAP's highest priority in the coming months must clearly be to campaign against these brutal measures. If you are willing to help in this campaign, please contact us at BCM Box 4842, London WC1N 3XX.

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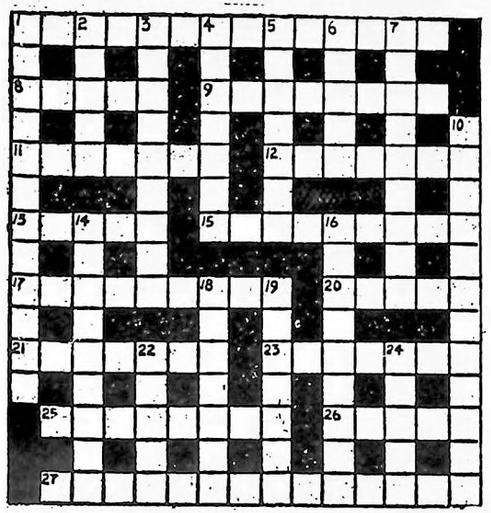
by *Mick Ryan* and *Joe Sim*



The penal lobby was demoralised in June 1983. Not only had the law and order Tories been returned to Parliament with an increased majority, but also it was widely rumoured in the press that the new Home Secretary was to be Norman Tebbit. What he might do to those who had transgressed the law made even NACRO shudder. It was therefore with a sense of relief that one wing of the lobby greeted the appointment of Leon Brittan. He was portrayed as a moderate, as someone who had learnt his trade under the benign William Whitelaw. Yet, within months of taking over at the Home Office Brittan announced to the Tory party conference a package of measures which included proposals for longer sentences for those found guilty of committing offences involving fire arms, an increase in time served for those found guilty of committing offences involving fire arms, an increase in time served for those found guilty of certain categories of murder and tougher sentences for those trafficking in drugs. Nor did Brittan stop here. In November he was back again, this time to announce the biggest expansion in the British prison system this century. There are to be fourteen new prisons and substantial renovation work on existing prisons such as the Scrubs.

So much for moderation! In the article below Mick Ryan and Joe Sim look closely at two of Leon Brittan's recent policy statements (to the Tory party conference and to the Howard League) in order to identify the real reasons behind his strategy and also to identify more accurately who will be affected by his proposals, and how. This expands on RAP's initial response to the proposals which appeared as the Editorial in the last *Abolitionist*.

PUBLIC CONFIDENCE

Central to Brittan's strategy is public confidence. The public he tells us are sickened by violent crime, and sentences which fail to reflect this could undermine the entire criminal justice system. He clearly felt in 1983 that this was a real possibility, that public confidence in the system had been shaken by lenient sentences, hence the need for a tough new package. Brittan identified the centrality of public confidence in the following way when he addressed the Tory faithful in October:

> The police and the courts can only be effective, and law and order can only be upheld if public confidence in the system is strong. Sentences which fail to reflect society's deep abhorrence of violent crime undermine that confidence and so weaken the whole criminal justice system.

At a superficial level, of course, Brittan is right. Public institutions, to function effectively, need to keep faith with the people. However, what is disingenuous about Brittan's approach is his failure to make clear that public confidence, no less than public opinion, is a social construct. And no one, it must be stressed, has done more to undermine that confidence than Tories like Leon Brittan who have portrayed our society as being under siege by *mindless* muggers and vandals. And for what purpose? Primarily, we would argue, it is to mobilise public support for harsh law and order measures which Tory social and economic policies require to hold the line against the occasional outbursts of social protest. It is no mysterious paradox that when these policies to cut down on social welfare are put into practice, when benevolent intervention by the state is curtailed in pursuit of monetarist policies, the poor and the underprivileged sometimes fight back, so necessitating *greater* intervention by the forces of law and order as in inner city areas like Brixton and Liverpool Toxteth. In hard cash terms what this has meant since the Tories came to power is less cash proportionately for health, education and housing and more for the police and the Prison Department.

VIOLENCE

The whole thrust of Brittan's speech to the Party faithful, and his subsequent interventions in the media, is underpinned by the idea that crime, particularly violent crime, is rampant in the country. He put it quite simply at the conference: 'there is today a great wave of anger against the wanton violence which disfigures our society. That anger is not confined to this conference and party. It is real, it is genuine. I share it to the full.'[1]

The notion of the violent society is, however, more fictional than fact. The overwhelming majority of crimes which are committed are still of a petty property nature. As Sir Robert Mark pointed out in his autobiography:

Take crime, for example. Always good for a headline or for the politician whipping up emotional support. It monopolises much of the television screen, the movies, the world of what laughingly passes for literature. It is an endless source of argument and debate. Of course to the victim of crime the word has real and often distressing meaning. But seen objectively against the background and problems of 50 million people it is not even amongst the more serious of our difficulties. Of the 2,100,000 crimes recorded in 1976 only 5 per cent would be classifed as violent and of these a very high proportion were cleared up.[2]

The latest Criminal Statistics for England and Wales 1982 reveal a similar picture. The Home Office authors note that the vast majority (over 95%) of the 3¼ million notifiable offences recorded by the police during the year were 'offences against property and many of these were comparatively trivial.'[3] The report goes on to point out that:

> A large proportion of recorded offences of theft and burglary involved the stealing of relatively small amounts of property. For recorded offences of theft, other than the taking of motor vehicles, about three-quarters involved stolen property valued at under £100. In about a quarter of recorded offences of burglary nothing was stolen and about a further two-fifths involved property valued at under £100. The distribution of value of property stolen in offences recorded in 1982 was similar to that in earlier years, when inflation is taken into account.[4]

With regard to assaults the statistics indicate that as in previous years under 5 per cent of all offences recorded by the police were offences against the person. There were, in fact, about 109,000 offences of violence against the person recorded in 1982 'of which the great majority (102,000) were of a less serious kind i.e. broadly offences of wounding and assault not endangering life. The number of recorded offences of robbery at 23,000 and of sexual offences (20,000) were each under ¼ per cent of the total number of offences recorded.'[5]

Brittan's identification of certain categories of offenders as meriting extreme sentencing policies also implies that such dangerous crimes of violence are somehow commonplace. Thus, while he ordains that anyone who murders a prison officer shall serve a minimum of 20 years, it is important to note that no prison officer has been murdered in the adult prison system in England and Wales for over 100 years.[6] The concept of the dangerousness of the prison officers' job itself becomes problematic when it is considered against the background of prisoners' deaths in custody. As Roger Geary has pointed out between 1969 and 1979 there were 631 deaths in the prisons in England and Wales, 226 (35.8%) of which were due to unnatural causes and to suicides.[7] Similarly, while 19 police officers were killed on duty between 1972 and 1982,[8] there were 411 deaths in police custody ('or otherwise with the police') over the same period, including 275 (67%) due to unnatural causes or suicide.[9]

The argument about armed robbery and the use of guns should be seen in the context of gun use by the police themselves. As far back as 1976, Sir Robert Mark made the point that 'firearms in themselves do not . . . pose a serious problem to police even in London.'[10] The impression that the police in general and the Metropolitan Police in particular were arming themselves throughout the 1970s but not in response to the number of armed crimes was confirmed in a thesis written by a senior Met. officer, Chief Supt. M. A. Hoare, for an MA degree at Cranfield Institute of Technology. Hoare indicates that during the period 1970–79, the Met. accounted for an average 76% of the national total of guns issued to the police. He concluded that:

> It is no surprise that the Metropolitan Police averages 76% of national total of issues, but they now seem to be breaking away from what appears to be an established equilibrium in the rest of the country. This rise does not coincide in any way with known armed crime. . . .[11]

It is also worth noting that in 1981, the weapons reported to have been used in 70% of all serious crimes involving firearms were not shotguns or pistols but airguns. These were implicated in 91% of all offences in which firearms caused injuries. A total of 88% of injuries caused by firearms were classified as slight and 38% of all firearm crime was made up of criminal damage offences.[12]

The populist notion, then, that crimes of violence are inexorably increasing is, in many respects, challenged by the Home Office's own figures, fraught with methodological problems though they are. Brittan raises the chilling spectre of those crimes which strike a chord with the majority of people – child murder, 'terrorist' bombing, the murder of police and prison officers, armed robbery – to push back the threshold of repression both in the prisons and in the criminal justice system in general. Two points about these crimes should be emphasised. First, their *uniqueness* in the context of crimes committed overall. It is their symbolic and ideological importance for the tightening up of the state's criminal justice apparatus which should be appreciated. Second, crimes of violence, like dangerousness, is a problematic category. Crimes of violence are also committed by the powerful and are rarely punished. Between 1980 and 1983, for example, there were 17 deaths and over 9,000 injuries to trainees on the government's Youth Training Schemes,[13] many of which were due to inadequate or non-existent safety precautions. Who defines what violence is and who suffers from it are important questions which raise wider issues than the strictly legal definition and categories which the Home Secretary operates.

LENIENCY?

Brittan's speech also relied on the other populist notion that the courts are, and have been getting, more lenient with regard to sentencing and rates of imprisonment. Yet the reality disputes this too. As Stephen Box has argued:

> between 1971 and 1981 the number of persons received into prison under sentence rose from 60,429 to 88,100, an increase of 46 per cent. This increase cannot be explained away merely by the rise in convictions for serious crimes . . . Rather it appears that courts are increasing the rate of imprisonment for particular offences and concentrating this harsher penal practice on the young.[14]

Moreover, court practices and procedures have not been lax in dealing with offenders. As Box points out:

> The courts have also been sending offenders to prison for longer periods. The average length of prison sentence rose during the period from 1961 (= 100) to 1973 (= 151), it dipped slightly at the end of the decade but rose again in the early 1980s. The outcome of this judicial practice is that England and Wales have a higher prison population per 100,000 general population than many other European countries.[15]

The background to Brittan's proposals, built around the idea of violent criminals stalking the streets, aided and abetted by an overly-lenient criminal justice system, bears little relation to reality. Dangerousness and violence are used symbolically to imply that society is out of control and in need of strong discipline. By implying that such crimes are the norm the Home Secretary has constructed an ideological smokescreen which masks the reality and complexity of crime while at the same time justifying a further turn of the authoritarian screw.

ALTERNATIVES

To return to more conventional lines of argument, there has been much talk in the penal lobby during recent years about a dual-track policy. That is, a policy which would recognise that while there may be a small number of really dangerous offenders who need to be incarcerated for perhaps long periods, the great majority of offenders are unlikely to rip into the social fabric at every turn and therefore can be safely supervised in the community. While not for a moment accepting that the majority of offenders are relatively harmless, Brittan has nonetheless hinted that he is going at least some way towards a dual-track policy. This was implicit in his speech to the Howard League when he said:

> the sanction of custody should be selectively employed. I have made it clear that in my view the most serious offenders should be given long periods in prison, but that otherwise custodial sentences should be avoided wherever possible . . .

Given his previously announced tough package several points need to be made about this general statement of principle.

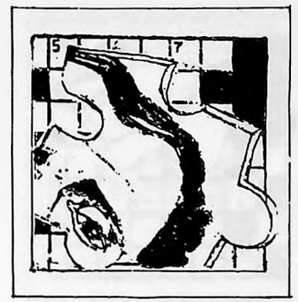
First, it is easy to see why some of those who favoured the dual-track policy were anxious for those left on the inside. They could all too easily become the 'bottom of the barrel', the real heavies whose already modest rights could be easily overridden. Is this what we are now witnessing? Is Brittan's apparent commitment to use custody selectively and as little as possible being balanced by harsher conditions for the 'really violent', such as restricted parole? While we do not wish to minimise the severity of Brittan's proposals for long term prisoners we are not, in fact, inclined to see them as a trade-off against an increase in non-custodial provision. In short, it is not an embryonic dual-track policy whatever the above statement of principle might imply. On the contrary, we believe that if the small print of Brittan's speeches is analysed there is evidence that any decisive shift away from imprisonment is unlikely, *even for those categories of offender who, just about everyone agrees, should not be in prison.* So, for example, about fine defaulters, there 'are very real difficulties diverting this group from custody'. About mentally disordered offenders, 'there are limits to how far diversion can succeed with this group'. And so on, throughout the small print, one qualification after another, leaving everyone in no doubt that even among such offenders Brittan expects little by way of diversion.

But more than just this, the alternatives which are to be provided could all too easily turn out to be no more acceptable than prison. Take, as a case in point, what Brittan had to say about habitual drunken offenders. Such offenders have always been difficult to cope with. What they need is welfare and support rather than punishment. RAP made this point many years ago, arguing for a network of relatively cheap but caring hostels. This advice was not taken by the government of the day which went ahead with its own plans for expensive detoxification units. The Tory government is now against extending these units. They are too expensive, and so what Brittan suggested to the Howard League is that in future drunks might simply be cautioned. This may possibly keep some drunks out of prison in the short term, but it will do nothing to help them with their problem. Indeed, the policy is little more than an example of the state withdrawing from any sort of caring role, a policy of 'benign neglect' which cost cutting monetarist Tories like Brittan are happy to get away with under the progressive rhetoric of 'alternatives'.

However, this is arguably not the most worrying example of how alternatives to incarceration are being managed to suit Tory purposes. Speaking to the Conservative Party conference, Brittan made it plain that the so-called soft alternatives had to be toughened up:

> We are working with the probation service on a major reassessment of their present functions. Probation and community services must be firmly administered, and they must make real demands on the offenders. These penalties must not be simply a soft option for those who would otherwise be in prison.

What is worrying about this development is that it represents what many now see as a deepening and intensifying of the state's control over the offender. He or she is no longer simply imprisoned and then set free, or ordered to pay a fine and then released unsupervised; rather, he or she is more likely to be placed under continuing surveillance and scrutiny in the community by the formal agencies of social control. In the past this surveillance has been modest. True, governments have not always been in favour of so light a touch. The emerging probation service, for example, had to fight hard against what it saw as unacceptable 'espionage' on the working class in the Edwardian period. And most RAP members will recall the struggle over the Younger Report in 1974 which was in serious danger of turning the probation officer into a screw on wheels. The question is, what has Leon Brittan got in mind this time, and can it be resisted? So far his policy statements have given away little in detail, but his general drift was not lost on one



senior probation officer attending the Howard League meeting who said he regretted that the Home Secretary had concentrated so much on the control function of the probation service at the expense of its social welfare role. Mr Brittan made no comment.

What is clear from all this, then, is that in order to sustain the authoritarian consensus the Home Secretary is not *just* making life more difficult for those who have committed serious violent crimes, he is toughening up the penal system all round, as it affects the petty persistent offender, the probationer or whoever. And he is more than likely to do this in a way which will deepen and intensify the intervention of the state in civil society.

STATE AND SOCIETY

At one level, of course, Mr Brittan is worried about what this might mean. In true liberal discourse, he is anxious to balance individual freedom with the demands of the state. As he put it when addressing fellow liberals at the Howard League:

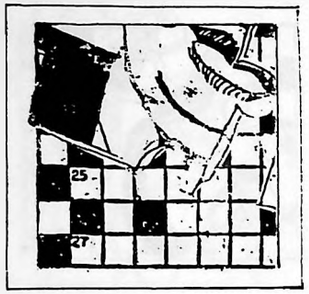
> The preservation of public order and the protection of individual liberty are the fundamental purposes of the modern liberal state. There must always be debate about the balance between the two.

In its own liberal terms, this is not an unreasonable concern. However, once again Mr Brittan is being disingenuous. He fails to acknowledge that under the pressure of recent political and economic events the balance between the state and individual has already been adversely affected. The crisis in Ireland has led to troops on active service there, trial without jury in the by now notorious Diplock courts, and the Prevention of Terrorism Act, which provides for internal exile and which now looks like being made permanent after the Harrods bombing in December 1983. On the economic front, successive Tory governments have sought to improve our performance in the international capitalist economy by anti-trade union legislation which has seriously eroded the hard won rights of labour against the State. Finally, and something we have touched upon already, Tory economic policies have been partly responsible for creating a sense of unrest in some inner city areas on the mainland, so much so that a number of local police authorities have rushed to order the very same plastic bullets as are used in Ulster.

Given these developments Mr Brittan should, perhaps, have spoken more honestly about *post*-liberal democracy. The central apparatus of the state is increasing its hold over society in a way which only a few years ago in the sixties would have been thought of as totally unacceptable, even authoritarian. We are, regrettably, far from those liberating days of the 'alternative society' when RAP first got started. It is with this fixed firmly in our minds that the struggle against alternatives which deepen and intensify community surveillance must be conducted.

ON THE INSIDE

But how are Brittan's proposals likely to affect those on the inside? That is the immediate question.



Brittan's proposals for the changes he wishes to introduce into the prison system operate at two distinct levels. First, and most obviously, is the prison building programme itself and the refurbishment of the older prisons. Fourteen new prisons will be built at a cost of £252 million.[16] The building of the 14 prisons is among some 330 projects ongoing in the prison system which are at various stages of design ranging from small local jobs to the new buildings.[17] It is, in short, the largest prison building programme this century. The prison service wil will be augmented by extra staff to cope with these new buildings so that between April 1984 and March 1988, it will gain an extra 5,550 staff, more than 5,000 of them prison officers.

The second level is in relation to the changes which Brittan is proposing in the sentencing procedures of the courts and in the internal working of the parole system. At the Conservative Party Conference in October, the Home Secretary argued that sentencing was of 'vital importance' and that sentences 'which fail to reflect society's deep abhorrence of violent crime undermine that confidence and so weaken the whole criminal justice system'.[18] Consequently he announced a number of measures: no life prisoners are to be released from custody except by the Home Secretary; in certain cases life may indeed mean life; those who murder police officers can normally expect to serve at least 20 years; similarly those who murder prison officers, those who engage in 'terrorist' murders, those who murder children and those who carry firearms in the course of a robbery and shoot someone, will also serve 20 years.

He had three further proposals to make with regard to crimes of violence. First there is to be an increase in the maximum sentences for carrying firearms in furtherance of theft from 14 years to life. Second, he proposes to introduce legislation to allow the Attorney-General to refer over-lenient sentences to the Court of Appeal so that the Court 'would be able to re-inforce the tough tariff that it has rightly laid down for serious crimes so that in similar cases, the right sentence would in future be imposed'[19]. Finally, and in what he regarded as the most important step, the parole system is to be changed so that no-one sentenced to more than five years' imprisonment for an offence of violence to the person will be released on parole except for a few months before the end of the sentence. Similarly, he indicated that drug traffickers sentenced to more than five years should 'be treated with regard to parole in exactly the same way as serious violent offenders – they should not get it!'[20]

The Home Secretary's proposals will have a major impact both outside and inside the prison walls. Building more institutions, as all the sociological and criminological research indicates, only results in the detention of more people. This point was made by Andrew Rutherford in *The Times* at the end of November:

> The real danger is that Mr Brittan's prison-building programme will send a signal to decision-makers throughout the criminal justice system that additional capacity is available. As a consequence the prison population is likely to be well in excess of 50,000 by the end of the decade and prison overcrowding will still be a major problem.[21]

Brittan also recognised in his speech at Blackpool that the measures that he is proposing 'will inevitably have an impact on our prisons'[22]. Because of this he indicated that he had already ordered the acceleration of a review of ways to improve 'our control over long-term prisoners in the dispersal system'[23]. The direction that such control measures might take has been revealed in a Working Party report to the Home Office which recently recommended that the most 'dangerous disruptive prisoners' should be held in specially designed jail units. The report supported warnings given by the Prison Officers' Association that the growing number of long-term prisoners sentenced for murder and other violent crimes was increasing the risk of killings in attacks on staff and other prisoners. It then goes on to recommend that two special units, each holding a maximum of 14, should be built in existing prisons, one in the South and one in the North 'as a matter of extreme urgency'[24]. Each would be self-contained with integral sanitation and facilities for meals, leisure, training and education. They would also have two strong cells for those who have 'to be disciplined for misbehaviour'[25]. Once again, the POA's long cherished ambition for the concentration of maximum security prisoners takes a step closer to realisation with this proposal. This is despite the recent eruption at Peterhead, where a policy of concentration operates but which has not led to any reduction in the tension or level of violence in the prison. It was the seventh major disturbance at the prison in as many years.[26]

Inside the prisons themselves, the impact of Brittan's proposals is likely to be severe. At a strictly numerical level, it is difficult to work out how many prisoners will be directly affected by the changes in the sentencing practices of the courts and in the parole procedures. The Home Secretary has indicated that the number of long-term prisoners is likely to increase by around 500. Juggling with numbers is a favourite Home Office manoeuvre with regard to the prison system but given that they generally under-estimate such figures it is probably safe to assume that the increase could be much higher.

The parole changes have also been challenged by critics of the Home Secretary and by prisoners themselves. While it is important to emphasise the experiences that prisoners had under the old system in terms of its philosophical weaknesses, its capriciousness and the lack of basic rights for those involved, it appears that the new proposals will remove what very little accountability, democratic process and openness that remained in the system. These qualities were in short supply to begin with, Brittan's proposals to extend his discretion in the area effectively kills them off completely. Thus on November 30 for example, he announced the abolition of the Joint Committee of Home Office and Parole Board officials, who up till that time decided the date at which the review of a lifer's case would begin. Under new procedures, it will be the Home Secretary himself, who will decide the date of the first reference of a lifer's case to a local review committee.[27]

The hope that some prisoners had of being released early despite the major problems that they encountered with the parole system has been removed which in itself has already led to, and is likely to further the chances of future disturbances in the dispersal system. The changes are also likely to increase the deeply held sense of injustice that many prisoners feel in that there could be a huge discrepancy in the actual number of years served by someone receiving a four year sentence and someone receiving a six year sentence. Peter Jenkins summed up the thrust of the proposals in this way:

> One of the effects of Mr Brittan's new penal policies is to appoint himself, and future Home Secretaries, as gaoler-in-chief and sole arbiter of rehabilitation and release. The Home Secretary will decide when life means less than life, which means that any borderline case will be settled by political cowardice.
>
> That, however, is not the main charge. Mr Brittan's crime is to answer violence with official violence, to harness prejudice to policy, and to give a fresh and unnecessary twist to the spiral which has given our country one of the most repressive and barbaric penal regimes in the civilised world.[28]

It will take some time to see how these changes work their way through the prison system and, in particular, what impact numerically, they are likely to have on the long-term prison population. Already, though, prisoners' resistance is mounting both in terms of the disturbances referred to above and in terms of recourse to the law. On January 27, Justice Woolf granted a prisoner, Peter Hogben, leave to apply for an order quashing a Home Office decision to return him to a closed prison. The judge also granted another prisoner, Edward Findlay, who is serving seven years for armed robbery, leave to challenge his treatment under the new policy. On both these fronts, then, Brittan's proposals are likely to be resisted. The centrality of the prison system to the unfolding of the Conservative Party's law and order society may yet therefore ultimately be undermined, if not destroyed, by the Home Secretary's own notion of penal discipline and physical containment. In short he may have dug his own prison grave.

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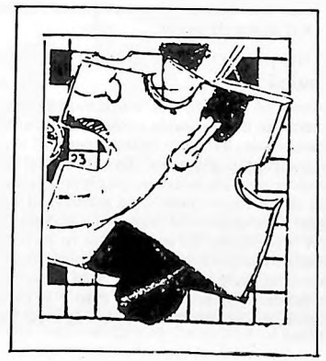


NATIONAL COUNCIL FOR CIVIL LIBERTIES: LIBERTY CAMPAIGN

PRISONERS RIGHTS CONFERENCE SATURDAY 5 MAY 1984

10.30–11.00 Prisoners' Rights – How Useful are the Courts? Stephen Sedley QC will examine prisoners' rights cases heard by the courts in recent years and pose the question: 'How effective have the courts been in defending the civil liberties of prisoners and are judicial attitudes changing?

11.00–11.30 New Moves in Whitehall and the Courtroom: How they Affect Prison Life. Geoff Coggan of PROP will report on the effect on prisoners and prison life of recent political policy changes on parole and court cases affecting prison adjudications.

11.30–11.45 COFFEE

11.45–12.15 New Parole Policy & the Prison Officer. Colin Steele of the Prison Officers' Association will give the POA's reaction to recent changes in parole policy and how they affect his members' work.

12.15–12.45 Women's Imprisonment. In 1970 the Home Office predicted that towards the end of the century fewer or no women would be sent to prison, yet in the interim the female prison population has increased by 65%. Pat Carlen, author and Senior Lecturer in Criminology at Keele University will discuss why women continue to be sentenced for petty offences and are then treated by the prison regime as 'mad not bad'.

12.45–2.00 LUNCH

2.00–3.30 WORKSHOPS

(1) Minimum Standards. This workshop will be lead by Silvia Cassale, criminologist. She will consider the attempt to develop a policy of minimum standards in British prisons. The workshop will consider the issue in the context of European and global campaigns to develop such standards and will consider the experience of America. In this context it should be possible to highlight the most conspicuous omissions in British policy.

(2) Women in Prison. Women in Prison, the campaigning organisation, will lead this workshop and consider issues of discrimination against women in prison including: education and training programmes, security levels and prison conditions, and family and child care arrangements. The workshop will discuss moving control of religious, educational and medical matters from the Prison Department to external bodies such as the BMA and education authorities.

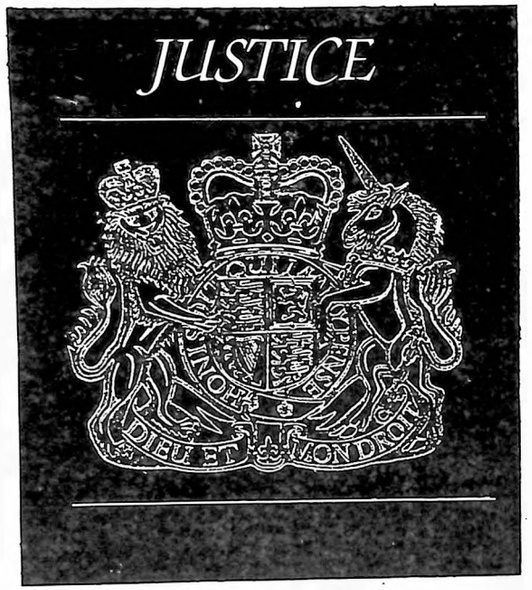
(3) Recent Developments in Penal Policy and Theory. David Jenkins of the Howard League will lead this workshop.

(4) Prisoners' Rights and Legal Action. Marie Staunton, NCCL's Legal Officer and Rod Morgan of the Association of Members of Boards of Visitors will lead this workshop and discuss test case strategy to further prisoners' rights.

3.30–3.45 TEA

3.45–5.00 The Way Forward. Jimmy Boyle and representatives from Women in Prison will lead an open discussion which will close the conference.

For further information please contact Lucy Jeffries 01-403 3888.



TOO IMPORTANT TO BE LEFT TO THE JUDICIARY

by Pat Carlen

In the spring of 1981 I wrote an article [1] in which I called for an end to the secrecy surrounding the penal and judicial systems and for a reformulation of the judicial role. The events of the summer of 1981, however, focussed attention upon the police. After the disturbances in Liverpool's Toxteth, London's Brixton and other large cities, many municipal councils turned their attention to the behaviour of their local police-forces. Subsequently, one result of the 1981 urban disturbances, particularly in areas with Labour-controlled councils, has been seen in the setting-up of local police 'support' units charged with monitoring both police methods of law-enforcement and police/community relations. The debate about police accountability has been sharpened. If, in similar fashion, we are ever to sharpen-up the debate about penal politics, we now need to turn our attention to the judiciary. For too long penal reformers have looked inwards to the prisons. Now we need to focus our gaze upon the sentencing antics of the magistrates and the judges. And we need to do so not just with the short-term aim of reducing the prison population but also with the more fundamental aim of socialising the criminal justice system. The major inpediments to socialising the criminal justice and penal systems presently inhere both in the secrecy surrounding them and in the so-called (and jealously preserved) independence of the judiciary. The secrecy needs to be undermined, the judicial independence redefined.

How can the secrecy of the judicial and penal processes be diminished?

The secrecy and mystification surrounding the judicial and penal processes have been well documented. [2] Recently, too, there has been political pressure for a Freedom of Information Act. What is more often overlooked is just how little informed public knowledge there is about actual working of the criminal justice and penal systems. When public opinion is referred to either by judges or by their radical campaigning adversaries, it is difficult to know what authority any of them are referring to (although one can surmise that, as often as not they are invoking an imaginary body of popular belief which is at one with their own views!) For the criminal justice system, the penal system, the 'welfare' system, the penal reform movements and academic criminology operate both together and in opposition as a series of closed systems manned by both competing and non-competing elites. Yet recent research by Stephen Shaw [3] and the Home Office, in its *British Crime Survey*[4], has indicated that although the public has little accurate knowledge about, for instance, the size and composition of the prison population, people are *not* so punitive towards offenders as the judges, magistrates and journalists would have us believe. If people had more information about the workings of the courts and the nature of the prison population their (supposedly) strongly-held views about the efficacy of imprisonment might be even further weakened.[5] To open up the whole area of penal politics, to reduce the secrecy and to engender responsible public debate and policy there must be an increase of informed popular knowledge of what the penal system is being used for, together with greater lay participation at the sentencing stage.

In his book, *A World Without Prisons*,[6] Calvert Dodge constantly emphasises the role to be played by the mass-media in the creation of an ideological climate favourable to the reduction of prison populations. Of Holland, for instance, where according to figures provided by the Home Office and published by the Howard League for Penal Reform, only 13.4 per 100,000 of the population are imprisoned as against 80 per 100,000 in the U.K. he writes:

> the Dutch media devote considerable time to public service programs especially where rehabilitation is the message. The Netherlands' League for Penal Reform helps supply the media with the subject material and data for its programs . . . Emphasis is not placed on the deterrent effect of prison or penal sanction . . and the Dutch have come to believe that punishment does not alter those situations or factors that lead to criminal behaviour.

Sweden has also reduced its prison population; between 1971 and 1973 the number of prisoners fell from 4,600 to 3,600 which was "the lowest number for ten years".[7] Again, Dodge (1979:239) emphasises the power of knowledge in facilitating change:

> Swedish citizens . . . are credited with knowing more about their prison system and its operations than most other populations. The Swedes take pride in the fact that this knowledge has aided them in reducing the number of prisons in Sweden and in maintaining the prisoners' civil rights during the process of resocialisation.

Lay acess to 'expert' knowledge without institutionalised lay agency, however, can only engender either innovative or reactive demands which may be accommodated by the existent system. So it has been with "rights" campaigns. Penal campaigners, for instance, have usually concentrated on making either *innovative* substantive demands (eg relating to the treatment of prisoners) or *reactive* demands (eg against the erosion of the writ of *habeas corpus*, or the undermining of the democratic character of the jury). They have not tried to socialise criminal justice itself. A fundamental condition for the socialising of criminal justice would be for parliamentary legislation to redefine and redistribute the sentencing powers of the judiciary away from the criminal courts to lay tribunals governed by criteria, and endowed with powers, which are not primarily penal.

Why should the powers of the judiciary be redefined and redistributed?

The 'independence of the judiciary' has always been seen in the UK as being an indepensable constitutional guarantee against totalitarian rule. Yet how 'independent' of the executive have the judiciary really been? The history of the *Habeas Corpus Suspension Acts* for instance, amply indicates the force of the political desire which limits (and defines) all legality. As Dicey comments "the unavowed object of a *Habeas Corpus Suspension Act* is to enable the government to do acts which, though politically expedient, may not be strictly legal"[8]. Nor, at another level, have the judiciary been independent of the politico-moral prejudices of their class.[9] In the area of criminal justice, moreover, their sentencing logic has, since the beginning of this century, been inseminated by the quasi-judicial welfare and medical judgements of professionals who, too often, are answerable only to the hidden demands of their own bureaucracies. The judiciary are only independent in one sense, they are independent of democratic control and review. As a result, in the area of sentencing they are often inefficient (ie their sentencing policies exacerbate existing social problems and lead to further waste of materials and labour). This wastage, however, does not result solely from the sentencing activities of the judiciary. It is also the inevitable result of an adversary system of criminal justice where the logic of prosecution demands that the strongest case be made against the accused in order to secure the highest penalty. In order to engender a more efficient (ie less wasteful) response to lawbreaking, therefore, I would suggest that both the decision to prosecute and the sentencing decision should be governed by criteria which are never primarily penal, and by agencies whose personnel are not predominantly professional.

Calvert Dodge (1979), describing the Dutch system of criminal justice makes the point that more than 50% of Dutch criminal cases are handled through the expediency principle. This means that a public prosecutor may waive prosecution if the suspect agrees to attend a drug clinic, alcoholic rehabilitation program or similar treatment programme. Furthermore, Dodge claims that "for the last twenty to thirty years the rule has been to ask 'Why prosecute?' rather than 'Why not prosecute?' Now, admittedly there is no lay element in Dutch criminal proceedings and the adoption of the expediency principle on its own would most likely worry civil libertarians here. Yet, it seems to me that, if the expediency principle were to be adopted together with both a greater lay element at the pre-prosecution and sentencing stages *and* procedural safeguards at all stages, the 'public' who are supposedly clamouring for increasingly severe penalties (and we do not actually know what proportion *is*!) would have to confront some of the extremely complex problems which, though they have provided some of us with our bread and butter (and more!) for years, have not been spectacularly alleviated by either judicial or professional intervention. I am not, of course, suggesting that the more punitive sectors of the 'public' would immediately become less punitive once engaged in judging their fellows (in fact some of the sentencing antics of the secretly chosen and vetted lay magistracy suggest quite the opposite). Many actual crimes would in themselves continue to provoke feelings of fear, anger and revulsion. But the actual crimes can already be read about in the newspapers. What might surprise a lay person participating only infrequently in the criminal justice system might be (a) the parody of due process in which the courts and prisons too often engage; (b) the intractable and extreme nature of many offenders' social circumstances and (c) the inappropriateness, both to the offender and to the community, of the court's final decision. To give but one example: for how long would the good people on the Clapham omnibus continue to send people to prison for not paying fines of, say, £50, once they knew that it costs well over £100 per person per week to keep them there? Might they not begin to question, at a fundamental level, the whole logic of present sentencing tariffs? And once they had so begun might they not then go on to question the whole rationale behind the criminal justice and penal systems? I *think* that they might and I think that they would then become increasingly perturbed about these systems' inefficiency, waste and sheer irrelevance even to the social problems they purport to address and alleviate.

How could the powers of the judiciary be redefined and redistributed?

One effect of the doctrine of the separation of powers, (an effect which can be discerned in some judicial pronouncements) is that questions of judicial right are discursively segregated from questions of political will and power. Judges can quite openly deplore the social conditions which result in certain criminal proceedings and yet, at the same time, locate all the guilt and responsibility in the individual lawbreaker. The judge punishes: the social worker intervenes. However, whilst the judge has the full power to punish, the social worker, has little power over the allocation of resources, and therefore lacks real power to intervene. I am suggesting that a more effective response to lawbreaking would come about as a result of a policy of intervention activated by lay tribunals empowered by parliament to develop more non-penal community facilities at a local level. This is not so idealistic as it at first might seem.

For many years the ubiquitous notion of "community" has been invoked as the imaginary backup to all kinds of social policies. The 'open door' policies of mental hospitals have been justified on the grounds that the "mentally-ill" should be coped with in the "community"; the Community Service Order has been hailed as the most imaginative penal innovation for years; there is talk of getting the "community" involved when there are difficult decisions to be made relating to housing, traffic, education etc. All very worthy. The trouble is that 'communities' as spontaneously organising collectives do not exist. Newly-released mental hospital patients and ex-prisoners are either exploited or have doors slammed in their faces; Community Service Orders are organised by professionals on behalf of the courts on one side and specific organisations on the other; and the long-suffering populations of derelict urban areas or isolated suburban housing estates remain just as alienated from, frightened of, and powerless about the nature of lawbreaking and the social response to it as they have ever been. Yet the lay jury is seen as a success. In Scotland, too, the response to advertisements for lay members of juvenile panels has been good. Why not, therefore, harness the public concern about lawbreaking to a Social Intervention Programme on which, for a specified period, all persons over a certain age would be eligible for either voluntary or compulsory service? (Preparation for such service could be incorporated into social studies lessons in schools). *I am suggesting that local lay tribunals, operating under the auspices of the expediency principle "Why prosecute?" should initially process all juvenile and most other "crime" where an accused person admits to breaking the law.* It would be essential that at the least such lay tribunals be chosen by non-secret methods; that ex-offenders not be barred; that tribunal members have voting powers on council finance and other committees. The judiciary would still fulfil a judicial function but judicial intervention would follow upon the *lay* decision to prosecute. Thus, in practice, lay tribunals would provide a continuous review of police activities whilst continuously defining and redefining the scope of the criminal justice system . . . Enough, however, of prescription! This proposal is not put forward as a blue print for a socialised justice (which, whatever else it might be should at least be forever changing!), it is just an example of one way in which the present system could be made more democratic and efficient. Yet even a more democratic system would have to confront the old questions concerning rights and powers of punishment.

Can the 'Right to Punish' be Displaced by the Power to Intervene?

The Dutch are efficient in handling criminal cases (Calvert Lodge, [6]). I would suggest that their efficiency inheres in their ability to separate the notions of social censure and regulatory intervention from the notion of punishment. And a conceptual distinction between punishment and regulatory intervention can be made – even though sometimes individuals might experience the effects of regulatory intervention as being more painful than disabilities inflicted purely for penal purposes.

Punishment, if successful, intentionally causes pain and usually has disabling (eg physical, psychological or financial) consequences for the offender. Regulatory intervention, on the other hand, need have no penal intent; it could be defined as being merely the authoritative rectification of the particular social problems which both occasion, and are occasioned by, lawbreaking. Thus, for example, in a more democratic (rather than elitist) system, a lay panel might, like the Dutch prosecutor, waive prosecution if offenders agreed either

to attend a drug clinic, an alcoholic rehabilitation centre, a day centre or some other programme; or to accept some other type of help or services of a day nursery in cases of child neglect or abuse, or supervision by a lay supervisor (lay supervisors have been successfully used in Norway and Denmark). However, it would have to be mandatory that, once the lay agency empowered to define a problem and recommend a solution had so done, lack of the recommended facility (eg work or housing for an offender) should not result (as it does at present) in incarceration or other punishment. But it might result in public debates in which much lawbreaking would come to be seen as part and parcel of other social problems eg (1) excessive numbers of alcohol-related crimes in one area might result not only in increased treatment facilities for those with a drink problem but also in intensive programmes designed to educate the public about the dangers of alcohol together with increased levies on those benefitting from its manufacture and sale; eg (2) excessive youth crime might result in public debate about, and investigation and remedy of, the work and leisure opportunities for the youth in that area as well as review of police practices in relation to youthful offenders. On the other hand, of course, it might not! But the points I am making are not those of Utopian prophecy – though dozens of other possibilities could be cited. I am merely trying to indicate ways in which parliamentary legislation could make moves away from the present elitist and secretive judicial and penal systems which, though steeped in legal *right* are completely lacking in the *power* to define effectively, and remedy, the social problems that, too often, occasion criminal proceedings. Which is why we have a repressive 'law and order society' increasingly incapable of delivering its own goods.

Are the foregoing arguments recipes for a mixture of libertarianism and statism?

No. First I will answer the possible charge of libertarianism.

I have not tried to argue that I can foresee a time when *no* individuals will be interpellated as guilty citizens worthy of social censure and even custodial restraint (though, of course, that is not to say that the time won't come!) Nor have I argued that punishment or the threat of punishment will have *no* part to play in a socialised justice. I would, however, expect such punishments as are imposed to be publicly justified and debated. (For example, although few British officials can think of any justification for our present policies of imprisoning the homeless, the mentally-ill, the alcoholic and those who cannot afford to pay a fine, the Dutch and the Swedes can argue that their policies of imprisonment for dangerous driving and white-collar-business-crimes do in fact deter). Furthermore, the argument has not been that social deprivation (however defined) licences crime – poverty no more endows people with a 'right' to break the law than does political power endow the state with a 'right' to punish lawbreakers. What I have argued for is: (1) more informed public debate about the relationships between lawbreaking, inequality and penal policy; (2) and relatedly, more lay involvement in the prosecution and disposal of lawbreakers; and (3) parliamentary legislation for the limitation of the powers of the judiciary and for the setting-up of agencies empowered to respond to lawbreaking in ways which would not be primarily punitive, where emphasis would be shifted, away from the *right* to punish, onto the *power* to remedy fractured social relations. And it is at this point that one can hear protesting murmurs against the proliferation of bureaucracy, the increase of statism and the diminution of the civil rights which are *supposed* to protect against totalitarianism.

Undoubtedly any socialisation of the criminal justice system would require parliamentary legislation to create new types of agencies – agencies with a greater lay element – to respond to lawbreaking. However, that does not mean that the road away from elitist specialism is necessarily via bureaucratic statism. Much of the power of the existent judicial and penal bureaucracies and professions inheres in the secrecy of their self-validating procedures and internal powers of review.

The complexity of organisation necessary to any programme of socialisation would still entail the employment of people with specialist skills as well as the occupancy of offices endowed with specific powers. In a socialised system of justice, however, specialist bodies and public office holders would have their spheres of competence defined externally (and not totally by central government) and their decisions would be open to lay review. (What, for example, I would hope *not* to have in a socialised system of justice, would be a situation as at present where doctors, social workers, psychiatrists and judges can all make penal decisions on the basis of reports never available for public scrutiny!)

Summary

These are not arguments for a popular justice. Justice will no more emanate from the 'people' than it has ever done from 'God', the 'State' or the 'Bench'. The requirements of due process must be constructed and reconstructed – that is, official action must still be governed by rules – though the rules' definition, interpretation and operation must in turn be governed by non-official agencies.

In a socialised system of justice individuals might still experience injustice, rules might still be broken and there would most certainly be continuous problems of organisation. But the system would be open to continuous and more democratic and informed review, its agencies would be empowered to define and resolve problems of lawbreaking in terms of social regulation and justice in general, and finally and most importantly, it would be empowered to experiment with modes of social intervention relevant to the changing nature of local problems of regulation and social justice.

In sum, it is the main theme of these Notes that a socialised system of criminal justice should move away from a system organised for the *administration* of justice by judicial right from above, towards one designed for the *construction* of justice within the more democratic organisation of competing interests and powers.

NOTES

1. Recently published in D. Garland and P. Young, *The Power to Punish*, Heinemann, 1983, pp.203-216 and entitled, 'On Rights and Powers: Some Notes on Penal Politics.'
2. See S. Cohen and L. Taylor, *Prison Secrets*, London, NCCL/RAP, 1977 and P. Carlen, *Magistrates' Justice*, Martin Robertson, 1976.
3. Stephen Shaw, *The People's Justice*, London, Prison Reform Trust, 1982.
4. M. Hough and P.Mayhew, *The British Crime Survey*, London H.M.S.O., 1983.
5. It is to this end that the Prison Reform Trust is holding a number of 'prison weeks' all over the country. HMSO information *is* of course available but much of it is not easily understood and *all* of it is very expensive.
6. C. Dodge, *A World Without Prisons*, Lexington, Mass. Heath/ Lexington Books, 1979.
7. R. Short, *The Care of Long-Term Prisoners*, London, Macmillan, 1979.
8. A.V. Dicey, *The Law of The Constitution*, London, Macmillan, 1958.
9. J. Griffith, *The Politics of The Judiciary*, London, Fontana, 1977.

GE++ING +HE SUMS WRONG

By Peter Simpson, NAPO Members' Action Group

Willie Whitelaw survived a considerable length of time dancing the tightrope of appeasing the Rights' incompatible demands for Law and Order on the one hand, and public spending cuts on the other. Eventually even his own personal standing and the passage of the 1983 Criminal Justice Act, not to mention commencement of ten new prisons, could not prevent him being swept away in the tide of bigotted and impractical fervour.

Leon Brittan's hurried attempts to improve the scant regard paid to a new and totally inexperienced Home Secretary, in the aftermath of his own hanging debate debacle, are doomed to failure. He has pinned everything on tinkering with the parole system, a system which had already been exposed as having as many holes as a leaky collander. The object of the exercise – to appease the blood lust of the Right for harsher sentences, while reducing the prison population so as to keep public spending down – cannot be met by these means. Indeed his almost immediate subsequent announcement of an additional four new prisons is testimony to his own lack of belief. (As an aside it is a fascinating process to follow the campaigns, in the local press, by the Right to prevent prison building in their own particular area – the same Right who want longer, harsher penalties).

It is a simple mathematical fact that the way to reduce prison overcrowding in the long term is to reduce the length of long sentences. One 30 year men occupies the same bed-space as 60 six monthers. For example – 25% of prison receptions are now fine defaulters, serving up to six weeks. They account for 3% of the prison population. To claim therefore that increasing the length of time longer-term prisoners serve can be balanced by reducing the time shorter-term prisoners serve, is as basic a miscalculation as the rest of this Government's monetarism.

But statistics can prove almost anything. Let's look at the justice of his decisions. Justice, the great watchword of Tory Victorianism. According to Brittan, Justice is served by refusing parole to anyone sentenced to more than five years for certain offences. Is retrospective legislation ever just? What faith can a man have in legal justice when rules which exist when he is sentenced are artibrarily changed later? What meaning has rehabilitation when the rules of the game can be changed at the drop of a Home Secretary? Violent crime is devastating because of the arbitrary and sudden change it makes to a victim's life. Is it then just to resort to the same tactics in response, and make them retroactive? It is a well established fact that sentences for serious crimes in this country are longer than any comparable Western European country. They have been getting longer ever since parole was introduced. The inescapable conclusion is that, for years, judges have been 'compensating' for the possibility of parole by passing longer sentences than they otherwise would. In addition, they have added the power of recommending minimum sentences, a practice which is never ignored at the parole decision.

The inclusion of an extract from the letter of a man serving fifteen years clearly illustrates this.

Having said to you that my parole procedure had not started this year I was served my forms on Monday evening! Now I find myself between the devil and the deep blue sea. Looking back at last year the procedures took nine weeks. One isn't normally moved during these procedures. So now here is the rub. Does one chase the carrot even though one is certain the carrot is imitation? Or does one say sod the carrot preferring to pursue transfer, for one thing is sure I cannot suffer the visiting and letter facilities here for another nine weeks without blowing all sorts of fuses. On one hand one wants to cling to the straw that perhaps you are one of the 'exceptions' whilst at the same time gambling many months remission. Two sayings spring to mind 'Nothing ventured, nothing gained' and 'A bird in the hand is worth two in the bush'. God, if Leon Brittan knew the bitterness and the hatred he is forcing down the throats of long-term prisoners he would surely recoil at the violence he is breeding in them. I wonder how many people within the prison department actually realise the extent of despair there is amongst long-term prisoners. It is the sort of despair that makes criminals look at the politics of the issue. Already criminals are talking like terrorists. Sometimes I have found myself believing htat I am caught up in a dream or nightmare). I, as a 'criminal', am frightened at the thought of the monsters Leon Brittan's new system will produce. Ah, but then what am I caning your ear for. You already know all the arguments. Take no notice of me, I'm just moaning at being in the wrong place at the wrong time – 'A simple twist of fate' (about par for my luck!)

To counteract this, Brittan then extends the parole system to enable prisoners to become eligible after six months. In most cases this will simply increase dramatically the paper work and only shorten time served by a couple of months. Moreover, it extends the scope of a system already discredited. The gross potential abuses of the parole system are bitterly recorded in George Jackson's *Soledad Brother*, and many of the United States have either abandoned or modified their indeterminate sentencing policy. Indeed we have, ironically, only just done this in this country for young offenders by abandoning borstals.

Many probation officers oppose parole because it transforms their service into one of pure surveillance; prisoners hate it because it induces months and sometimes years of unnecessary anxiety and uncertainty; judges are, by implication, suspicious of it because it introduces wide margins of executive decision making after their judgements, and the public is baffled by it because they cannot understand how people convicted of serious crime can be let out to soon.

For the Home Secretary to attempt to unravel this bafflement by further confusing the issue; for the Government of firm consistent policy to introduce further inconsistency into the penal system – is as absurd as the irrational demands to which they acquiesce. Not only that – they will not, indeed cannot, achieve the goals they themselves set.

TOWARDS A NON-CRIMINAL JUSTICE BILL

by Martin Wright

The Home Secretary has announced plans for yet another Criminal Justice Bill. He is reported to be toying with the idea of part-time imprisonment, which those concerned for a sensible crime policy will surely resist, both on practical grounds (the new measure would, like suspended and partly suspended sentences, inevitably *increase* the use of imprisonment, so that prisons would have as many inmates as now plus an unmanageable influx at weekends) and on ethical ones (tinkering with new ways of inflicting punishment will never lead anywhere, and is wrong in principle). It is surprising that the normally alert Parliamentary Penal Affairs Group has fallen for this hopeless proposal.

There are however a number of reforms which ought to be included, to reduce the use of imprisonment, in line with the 'attrition' advocated by the National Moratorium on Prison Construction in the USA; and to make the prisons that remain more endurable. Most would cost little, or even save money; those which concern prisons would make them easier to manage, and less likely to lead to the discharge of prisoners with a grievance at the way society has treated them.

Like most Criminal Justice Bills the list is incomplete, and includes both major and minor items; and to round out the picture there are a few that do not require legislation. Several of them have been proposed by the Howard League, but are, I hope, none the worse for that.

TOWARDS A REDUCTION OF CONFLICT

There is an urgent need to clarify the aims of the law enforcement apparatus; these are bound to change in the course of time, but at present there is more than usual uncertainty. The effects of deterrence are limited, and it has many side-effects that are both undesirable and inhumane; the idea of 'treating' offenders has been discredited, although there can surely be no objection to offering them help in overcoming problems and acquiring vocational, social or survival skills. A third approach is the way of reconciliation between the offender and the victim (or society), and laying greater emphasis on reparation (Arthur and others, 1979; Howard League, 1977a; Wright, 1982, 1983a). These questions need to be explored more fully; meanwhile the facts about the existing penal process, and such research as has been carried out, should be made more widely known outside academic circles. When the aims have been clearly stated, it will be possible – and necessary – to test whether they have been achieved. Hence:

1. An independent centre should be established for the study of crime prevention and law enforcement and for spreading information in non-technical language (NELP, 1977). Ways of involving the community in crime prevention should be studied, especially those which enhance life in the community quite apart from their preventive value, such as providing legitimate outlets for juveniles. Crime prevention should be a separate branch of social policy, comparable to accident prevention or health education. These policies should have priority over deterrence as the main method of trying to reduce crime.
2. Mediation centres should be established to enable people to resolve their own disputes, without the intervention of professionals. With experience, this method could be extended to disputes which had erupted into a criminal act, and then to crimes by strangers. (Several schemes of this kind are already beginning, and the Home Secretary has given the idea a cautious welcome (*Times*, etc., 15 March 1984, Wright, 1982 chapter 10; Wright, 1983a).

PROSECUTION PROCESS

For those cases which are not diverted out of the process in this way, reform of the prosecution system is essential.

3. Public prosecutor: an independent prosecuting authority should decide whether it is in the public interest to bring a prosecution at all, or whether the case should be dropped (because it is trivial, or would cause distress as in the case of elderly shoplifters) or referred to mediation. The prosecutor might also be given power to levy a fixed penalty instead of taking certain types of case to court, provided the accused admitted the offence and did not object. Some of these proposals are expected to be in the Bill.

4. Greater and more uniform use of cautions by the police, for adults as well as juveniles.

5. Abolish the dock in criminal courts. This relic (not as ancient as commonly supposed) is prejudicial to the defendant because of its stigma, and because it prevents him from communicating with his advocate (Howard League, 1976a). Security would be better served by seating him (by his lawyer) at a solid court-room style table and chair.

6. A right to bail in cases where there is little or no prospect of immediate imprisonment; bail pending appeal subject to the same criteria as before trial.

7. A time limit on remands in custody, with closely defined exceptions. The Scottish limit of 110 days is usually suggested.

8. Compensation for those imprisoned before trial and then acquitted (other than on a technicality) and a similar entitlement for those convicted who are subsequently able to demonstrate their innocence.

9. To give substance to the old cliché that a citizen is deemed innocent until proved guilty, defendants should not be named until they have been convicted. This would merely require that the existing law relating to rape charges should be extended to all cases.

NON-CUSTODIAL SANCTIONS

The principle should be written into the law that the normal penalty is non-custodial; imprisonment should be used only in cases analogous to those where bail is refused before trial, for example where a serious offender is considered likely to abscond without complying with the penalty (or making reparation), or to commit further serious offences. It should be recognised that non-custodial penalties also entail loss of liberty. Each penalty should have safeguards to prevent is use where a smaller one would have been adequate; the criteria for custodial sentences should of course be especially strict. A redefinition of the aims of the probation service is overdue: instead of agonising over whether to be caring *or* controlling, it should accept the boundary rôle of explaining the needs of society to the offender, and *vice versa* (Millard, 1981). It should also accept (as many probation areas have already done) the rôle of promoting constructive responses to crime by members of the community. Other non-custodial developments should include:

10. More use of compensation of victims by offenders after conviction, in addition to the pre-trial diversion mentioned in item 2 above (Wright, 1983a). The new probation rules are drafted to allow this – but such initiatives should not necessarily be probation-based.

11. Fines should be replaced by payments to charities, including victim support schemes. The amount of payment should be related to a number of days' income, rather than to a sum of money.

12. For those who need to acquire social and vocational skills, there should be more expenditure on day centres (Burney, 1980), hostels, self-help groups and other resources, to save much greater expenditure on prisons. (See also 35, below)

13. Mentally ill offenders to be diverted from the system as soon as possible, preferably before conviction; adequate community resources must be provided for those who do not need to be in hospital, and for disturbed individuals who are neither mentally ill nor dangerous (Howard League, 1976). There should be better training for the staff of mental hospitals, in dealing with difficult patients; they should then receive commensurate pay, in the understanding that they would lift objections to admitting offenders as patients instead of leaving them to be sent to prison as often happens at present.

PRISONS

The aims of prisons also need to be clarified. There is a conflict between the aim of the courts, which is to send people to prison as a punishment (or at least, as suggested above, for detention), and the aim which the prison service must set itself, if it is to retain its humanity and self-respect, namely to offer help to human beings who need it, whatever their past deeds. At present the conventional thinking in the service is that it must above all hold people for the specified period. Instead, it should concentrate on releasing them back into the community at the end of the period – which says the same thing but with a very different and outward-looking emphasis. The treatment of prisoners should be such as to make them want to be, and capable of being law-abiding members of society. (Society also has some obligations towards them, but there is little a Criminal Justice Bill can do to enforce them) Among the changes there should be in prison regimes are:

14. Commencement of sentence should be able to be deferred, to enable the convicted person to put his affairs in order, subject to bail-type criteria (Howard League 1974, p. 5).

15. It should be made illegal to impose a custodial sentence for any reason except punishment or the protection of the public: prison should never be used as a forced welfare measure, e.g. for the homeless, the addicted, or the prostitute.

16. Prisoners' contact with families and friends should be assisted by finally abolishing censorship (except with a warrant on grounds of security), and by allowing the use of the telephone and regular home leave except for clearly defined reasons of security or public protection (Howard League, 1978). Imprisonment should be as near home as possible, and travelling expenses for visiting partner and children paid in cases of hardship for all visits (not just once a month as at present). The longer a person's sentence, the more important it is for him or her to be close to home for regular visits. (Matthews 1984)

17. The Repatriation of Prisoners Act, giving foreign prisoners the option of transfer to prisons in their own countries, with proper safeguards, should be put into effect as soon as possible (Howard League 1979b).

18. Prison staff should be encouraged to become more involved with the local community, and *vice versa*; prison officers could for example recruit prison visitors and pen-friends for prisoners, run attendance centres, and undertake exchanges and shared training with the probation service.

19. Prison staff should receive better training (especially hospital officers), and should be encouraged to improve their earnings by acquiring qualifications (for which they should receive suitable pay awards) rather than by working overtime (Howard League 1979a).

20. For prisoners at odds with the system, units on the Barlinnie model should be established; they should also be used for staff training, so that their influence would spread throughout the service.

21. No prisoner who does not understand English well should be subject to disciplinary proceedings without a competent interpreter.

22. Prisoners should have enough work, at proper rates of pay; education or training; and adequate pre-release preparation, as a right, including special leave to seek accommodation and attend job interviews.

HUMANITY AND HUMAN RIGHTS

The principle should be adopted by statute that prisoners retain all human and civil rights unless these are necessarily removed by the fact of imprisonment, or expressly and for good reason removed by statute or court order (e.g. deprivation of the right to vote for a period could be a penalty for electoral malpractice or corruption in central or local government). Security requirements, a reason commonly advanced for restriction of rights, should be spelt out in the law. As in the outside world, punishments should be progressively reduced to the minimum necessary for the maintenance of order and the protection of others; with adequate conflict resolution procedures as outlined, this minimum should be very low.

23. Prisoners should have the right to vote.

24. In addition to the removal of censorship, mentioned above, petty restrictions such as the ban on typewriters should be abolished.

25. The length of solitary confinement as a punishment should be progressively reduced as an official policy, until it follows other mediæval survivals, such as bread-and-water diet, into oblivion. Segregation for purposes other than punishment ('good order and discipline') should also be closely controlled and limited (Gruner, 1982).

ADVICE AND SAFEGUARDS FOR PRISONERS

Prisoners are subject to a bureaucracy applying elaborate rules in a system that is under pressure: since no bureaucracy is 100 per cent wise and efficient, mistakes will be made, and it is only right that the prisoner should have the opportunity to have them corrected. This should be done at the lowest level possible, with appeal to a higher level only where necessary; the present system in which prisoners are encouraged to appeal to the Home Secretary over trivia is a nonsense. As far as possible the system should be self-correcting, through internal safeguards; but there must be external ones, to cover the cases where the internal ones, or the human being who apply them, fail. Thus what is needed is advice and information, informal

procedures, formal procedures, and access to means of redress in the outside world.

26. Each prison should have a prison council, with representatives of staff and inmates, to decide matters concerning prison life but not involving security, such as how the prisoners' weekly levy for recreational facilities should be spent (and audited accounts should be presented to show how it was spent).

27. A Prisoners' Advice and Legal Centre should be established, to which prisoners and their families could turn for information and advice. Where necessary it would take up matters with the Home Office; it would also collate information on areas in which reform was needed. (A proposal for such a centre has been drawn up by a consortium of voluntary organizations; funding is currently bieng sought.) As an extension of this, all prisons should have a duty solicitor scheme on the model being pioneered at Strangeways prison, Manchester.

28. Boards of Visitors should be reformed (and given a less confusing name), as proposed in the Jellicoe Report (Howard League and others, 1975). Their membership should be widened, and their duties confined to those of a 'watchdog'. It should be made clear that in future the names of those appointed will be published. They should hold regular 'clinics' at which prisoners could raise questions and problems.

29. The grievance procedure should be overhauled. For minor disputes, prison mediation schemes should be set up, similar to those described in 2. above (Bethel, 1984). More serious cases should be adjudicated at a hearing outside the prison, as proposed by Jellicoe, with full legal and procedural safeguards. When the offence is a crime, or carries a substantial penalty under prison regulations, the prisoner should have the right to claim trial in an outside court.

30. Prison Rule 47 (12), by which a prisoner can be punished for making a complaint if it is deemed 'false and malicious', should be abolished. (Zellick, 1982).

31. Prisoners should have the right to obtain an independent medical opinion. Medical care of prisoners should be provided by doctors of the National Health Service.

32. Similarly, the spiritual care of prisoners should be provided by the churches concerned, as is already done in the smaller denominations. Money at present paid to the prison chaplains on the payroll of the Home Office should be paid over in annual payments to the Church of England and the other churches, which would then make their own appointments of chaplains and other pastoral workers.

LEGAL AND ADMINISTRATIVE FRAMEWORK

The need for a clear philosophy for the criminal justice system has already been referred to. There are two other requirements: to set limits and to avoid divided responsibility. The former is for the sake of controlling the proportion of national expenditure that can be devoted even to such an essential function as law enforcement. It is also for the sake of humanity – human beings, including judges and magistrates, have shown a deplorable willingness to inflict suffering. The latter is because divided responsibility leads to buck-passing, and in practice often to shutting people away in (centrally funded) institutions unnecessarily, because (locally funded) bodies do not provide the community care that they would otherwise require. Some further safeguards are proposed in the interests of fairness and openness.

33. There should be a moratorium on the construction of new prison places, and secure units for children, since there is evidence that many people are sent there inappropriately, and no evidence that sentences need to be as long or as numerous as they are. Existing places should however be improved, and above all sanitation brought up to civilized standards. (Rutherford and Morgan, 1981).

34. For juveniles especially, the system should be checked by two sets of criteria: for individuals and for systems. No juvenile should be sent to an institution unless strict criteria were met, and for secure accommodation even stricter ones (Howard League 1977b). No area should be allowed to send juveniles to institutions at all unless it had an adequate range on non-institutional facilities, and could show in each case why none of these was appropriate for the individual in question. Residential institutions would have to comply with high standards of staffing, equipment and regime; this should be attainable, despite the expense, since under the above proposals fewer institutions would be needed, so that more money would be available to spend on each.

35. Similarly a scheme should be introduced by which the probation service would receive extra funds in proportion to the number by which it was able to reduce the prison population below its predicted level, subject to appropriate safeguards such as clear statement of aims of new projects set up under the scheme, and independent evaluation (Howard League, 1975; Wright, 1983b).

36. There should be limitations on sentencing. Maximum 'normal' sentences should be reduced and made more consistent, as recommended by the Advisory Council on the Penal System (1978); exceptional sentences, exceeding these limits, would be strictly limited on the lines proposed by Floud and Young (1981). The shortening of sentences should be accompanied by moves towards phasing out parole (Howard League 1981); life sentences should not be mandatory for murder, and should not be used at all in cases where homicide was not involved.

37. The Official Secrets Act should be replaced by an Official Information Act; those who have lost, or are in danger of losing, their liberty should be entitled to see their dossiers and challenge alleged inaccuracies. This should include parole dossiers, while parole still exists. Prison standing orders and circulars should be made public; the only exceptions to these principles should be where security was involved.

INTERNATIONAL

Governments could play their part in raising standards throughout the world, once they had set their own houses in order. They could for example refuse to extradite alleged criminals to countries whose penal systems did not comply with the Standard Minimum Rules and the United Nations resolution on alternatives to imprisonment (the latter promoted by the Howard League at the UN Crime Congress in 1980). Ideally the Non-Government Organizations at the UN concerned with criminal justice whould pool their contacts and compile a report for each UN Crime Congress, giving as much information as they could collect on the observations of those two UN statements of principle. (Howard Journal, 1982). This is an area for voluntary vigilance, and reforming organizations should do all in their power to assist fair-minded and humane people who are willing to take up this unpopular (and in some countries dangerous) cause. Upholding the law without repression is one of the most vital tasks of a civilized society.

For a critical view of Martin Wright's suggestions, see Prison Briefing *in this issue.*

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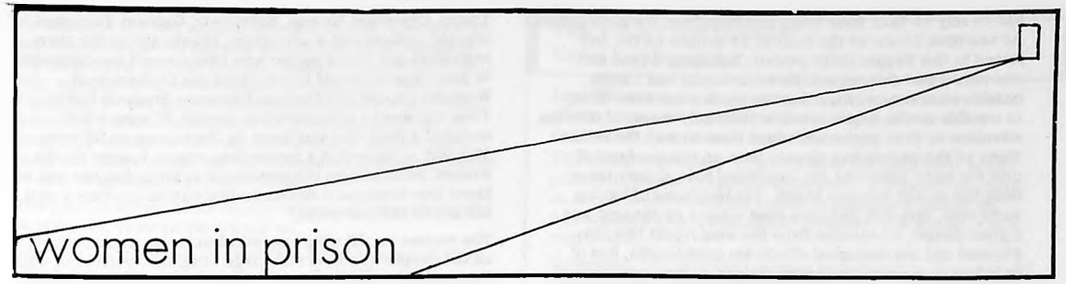

REPORTS FROM THE PRISONS

HOLLOWAY

WHAT HAPPENED TO WILMA LUCAS?

Wilma Lucas was admitted to Holloway Prison on February 10th 1984. She arrived from Chertsey Magistrates Court severely beaten up. Holloway transferred her to the Whittington Hospital. The Whittington Hospital then transferred Wilma back to Holloway. On February the 13th Holloway transferred Wilma to the Royal Free Hospital where she died that day from a subdural haemorrhage.

WIP wants to know why a woman was put into the dock at Chertsey Magistrates Court and charged with a breach of probation and a previous failure to appear before the court, when she was clearly in no fit state and should have been in an intensive care unit rather than in a magistrates court? Also, why was a woman suffering from or in danger of a subdural haemorrhage transferred from court to prison, from prison to hospital, from hospital to prison and from prison to hospital within three days? All these moves surely exacerbated and possibly *caused* the fatal haemorrhage. Someone must be responsible for the mistreatment of Wilma Lucas. Any information on this case would be appreciated by WIP and Inquest.

The women on remand wing in Holloway have *no* work and are locked up for twenty-three hours out of twenty-four. Tension is rising.

Pregnant women in Holloway are receiving a half pint of milk a day rather than the usual one pint. We do not know the reason for this and Ms Kinsley has declined to answer our letter on this and other matters, preferring to pass our questions on to the Prison Department. We can hardly believe that the savings on twenty-one pints of milk (if the figure of forty-two pregnant women in Holloway is correct) will count towards Ms Kinsley's Ladyhood. We do feel, however, that reducing the milk like this is petty and indicative of the kind of regime both Ms Kinsley and Chief O'Neill seem determined to run.

We assume that Joy Kinsley is still considering our request that she follow standing orders and permits lighters in her prison. Women still split their matches in Holloway and small pieces of sulphur fly everywhere. Holloway is one of the top prisons for fire hazards and has a very bad record indeed. For this reason Holloway was one of the first prisons to be issued with the new flame-retarded mattresses which will go some way to safeguarding the prisoners. But were the pillows also replaced or are they still made from the same highly toxic foam? We will know when our piece has been tested and report back next issue.

Education classes resumed with some frequency in Holloway and we thought the letters penned to the *Guardian* by Sarah Cawthra (Prison Reform Trust) and us might have had something to do with it. We learned later that the Inspectorate had been in the prison at the same time as the classes resumed!

STYAL

JOYCE MARSH

Joyce Marsh was found dead in her cell on November 17th 1983 at Styal Prison. She was an epileptic and had suffered from epilepsy since the age of twelve. A member of WIP attended the inquest on Joyce Marsh held at Macclesfield Police Station on Thursday 22nd February 1984.

A prison officer found Joyce Marsh face down in her bed when she came on morning duty and opened her cell. The prison officer told the court that although the night duty officer is not allowed to unlock cell doors on her own she checks each woman through the cell observation glass three or four times in the evening.

The pathologist, Dr. Williams, fixed the time of death as the early hours of the morning. He told the court that Joyce Marsh was on two different kinds of drugs, *Phenobarbitone* and *Sulthiamine* but he did not say what amounts were prescribed. He did say that the second drug was 'therapeutic'. Dr. Williams said that asphyxia was the cause of death but it was not known whether asphyxia was due to lack of attention or epilepsy. Pursuing this line the coroner asked Dr. Williams whether the death could have been prevented if it had happened during the day. The doctor took some time to answer and then replied that asphyxia could happen at any time and that he regarded the death as a natural death rather than an accidental death.

The coroner summed up. There was, he said, no evidence that the drugs had an unnatural effect. He told the jury that if Joyce Marsh had had an epileptic fit and her head was buried in the pillow, then the verdict would be death by misadventure. He reminded the jury that Dr. Williams had said that this was not the nature of her death because although Joyce Marsh was found *face down, her head was to one side* which meant that she could have still been able to breathe.

The jury were asked if they wished to retire to consider their verdict but they did not. The jury decided within a minute that the cause of death for Joyce Marsh was natural causes.

DURHAM 'H' WING

The unit that was considered inhumane to house long term male inmates in 1968 and closed down in 1971.
Re-opened in 1974 with extra security and an even more severe regime and has been used to contain women ever since.

'It's like being buried alive in a concrete box' . . . . . ex-inmate Durham 'H' Wing 1983.

The women on this unit staged a 35 day hunger strike in protest at their conditions. They chose to focus on the food in order to draw attention to their conditions generally as this is one of the areas where they are suffering even more severely than the men were in 1968. The men were allowed to cook for themselves on this unit which as one ex-prisoner from the unit said 'at least made life a little more bearable, it was one of the few pleasures that we had'. The women have always been denied this even though it is one of the standard recommended facilities for long term inmates. They have always

had to rely on their food being sent over from the main prison. At one time 23 out of the total of 35 women on the unit joined in this hunger strike protest. Solidarity on the unit was strong and determined. However family and friends outside were very worried that the women had been driven to use this double edged sword as their only means of drawing attention to their plight, and urged them to stop the strike. Many of the women had already been on this condemned unit for many years and the conditions have already taken their toll on the womens health. The likelihood of having some very, very sick and even dead women on the unit was a great danger. Ex-inmates from the wing report that the physical and psychological effects are considerable, loss of hair, loss of memory, withdrawing into solitary confinement more frequently, loss of energy, eyesight problems from the fluorescent lights, skin changes in colour and texture, the list is endless. Judith Ward who has spent 10 years on the unit has deteriorated in health gradually so that she is hardly recognisable from the young strong woman of 10 years ago. She weighs less than 7 stone and has frequent and increasingly severe attacks of bronchitis and collapse. Lorraine Greenwood lost nearly five stones in weight and was hospitalised in the punishment cell on 'H' unit. We do not as yet have reports from the other women involved.

In answer to pleas from family friends and staff on the wing the women stopped their protest. The staff thought that 'all this dieting and staying in your rooms is not good for you'. It seems that women 'diet and stay in their rooms' but 'men go on hunger strike and into solitary confinement'. Just another example of how women are not treated seriously throughout the penal system and how their complaints are ignored. Judith Ward had been on solitary confinement since November 1983 and 'came out of her room' on March 6th when the 'dieting' or hunger strike also stopped. The family and friends of the women were very much relieved and apparently so too were the staff.

Until they took what appears to be a complete turn about in attitude. Judith and Lorraine were called into the office and told that they were being sent away. They would not give them a reason and they were not charged with any offence but were sent on Rule 43/Punishment conditions for a '28 day rest'. Judith to Grisley Risley and Lorraine to Bleak House in Styal. Families were not advised and Lorraine's Mother was still sending parcels to 'H' wing some 10 days later. Lorraine was without her bed springs and neither women had a radio when WIP last heard. When the story finally made the newspapers some 10 days later on the 21st February the Home Office moved them both back to 'H' wing that same afternoon. No reasons have been given for these moves and no explanations given to the families why they were not informed. We can only assume that the exciting drive from Durham to Manchester fulfilled the fantasies of many in the decision-making chairs and driving seats. These two women who weighed less than 14 stone between them, and who have a non-violent record within the prison system were escorted in a van with three male officers, three female officers, four patrol cars with blue lights whirling and wailing all the way and eight motorcyclists with flak jackets. Security over-kill . . . . The Home Office can now report that we may all sleep soundly in our beds as they have once again safely locked up 35 women in the 'concrete-box' – at great expense.

The inhumane conditions of this unit have been well documented since the late 1960's. The campaign to close 'H' wing produced a drama/documentary programme for BBC2 Open Space which went out on February 15th. This has resulted in a tremendous response from people all over the country. We have hundreds of letters of support from people offering their help and the campaign is presently preparing a petition for all to sign to send to the Home Office.

The Probation Services in Northumbria, London and Durham have agreed resolutions to support the campaign. We acknowledge with thanks their support and financial help and hope that other areas will also make resolutions. Other agencies have also given their support and we would like to thank NCCL, Prison Reform Trust, RAP, Release, Women and Manual Trades, Greenham Women, Sisterwrite, Gateway Exchange, schools, colleges and many others. Thanks also to the many journalists and media people who have covered the campaign. In particular we would like to thank the Durham local Women's Groups and Durham University Students Union. They organised a demonstration outside 'H' wing which included a band that was heard by the women on 'H' wing. This sort of support is a tremendous morale booster for the women. Sounds from the outside are so far and so few and to know that someone is demonstrating outside provides a vital life line to the real world.

The women on 'H' wing have asked us in particular to thank all the people who have sent cards, telegrams, letters and white flowers in love and solidarity. These kept them going through the painful days of the strike and the still painful days in the 'concrete-box'. In particular they were impressed that the men in Winchester Gaol had managed to get through the red-tape and send flowers . . . !

We hear that letters to the Home Secretary from friends and family are being ignored. We suggest that if this happens to you, you contact your local MP and ask him to find out why your letter has not been answered.

We have had many questions asked in the House of Commons and the House of Lords and would like to thank: Jo Richardson MP, Harriet Harman MP, Joan Maynard MP, Rene Short MP, R.Kilroy-Silk MP, P.Thurnham MP, Dr.Mark Hughes MP, for their help in the House of Commons and Lord Longford and others for their help in the House of Lords. Unfortunately the Home Office use evasive tactics when replying and an example of the response is . . .

> 'We are satisfied that conditions in H Wing are humane.' (Douglas Hurd 6.3.84).
>
> 'Information of the number of women not classified category A allocated to H wing since 1974 could only be provided at disproportionate cost.' (Douglas Hurd 22.3.84)
>
> 'The staff have managed to create a relaxed atmosphere on the wing within the constraints imposed both by limited physical facilities afforded by the wing and by the staff attendance system and the standards of cleanliness and hygiene are high.' (House of Lords 2.4.84)

How do we break through this brick wall of official complacency?

FUTURE OF THE CAMPAIGN TO CLOSE 'H' WING

Continued pressure must be made on the Home Secretary and the Home Office through parliament, the House of Lords and the Press and Media. We would welcome continued help and support from individuals and agencies and will be happy to brief you beforehand.

We have briefed the Parliamentary All Party Penal Affairs Committee and they have asked Baroness Vickers and Dr.Mark Hughes to visit the wing. We stress the need to talk to the women inmates on the wing alone during this visit.

We have seen a solicitor and talked about the legal rights of the women on 'H' wing. Our visit was very positive and we are hopeful. If any of the women on 'H' wing are not happy with their conditions and would welcome legal advice about possible proceedings in court please contact the WIP office. We shall be able to advise you further . . . This could be a very important step forward but the initiative must, of course, come from the women on 'H' wing. We look forward to hearing from you. . .

We also advise that women on the wing should contact their MP. Particularly the women who are not category 'A' and ask her/him why you are being held in maximum security conditions. If you have difficulty in finding out who your MP is we will be happy to help you locate her/him.

Writers are needed to ensure more press and media coverage. The campaign has plenty of researched information for you and will be happy to help with articles.

We also need to build up facts and information from inmates, and doctors about the physical and psychological damaging effects of living in a unit like this. If anyone thinks they can help with this data please contact the campaign. Professor Laurie Taylor and Stan Cohen's *Psychological Survival* which is the best evidence available so far is unfortunately out of print. The women on 'H' wing need a copy if anyone has a spare one. However this sort of information desperately needs to now be updated. Any offers please?

The petition forms will be ready soon and anyone interested in organising these please contact us.

The women on the unit also need the moral support of your letters, telegrams, cards and flowers – white if possible through Interflora 01-732 3641. Send direct to a named woman in the unit either Judith Ward or Lorraine Greenwood. If any other women on the wing would like to receive flowers etc, please let us know. At the moment they are distributed by Lorraine and Judith.

There is a unit in Holloway which is, according to the Home Office, an enhanced security unit for remand prisoners in Category A classification. Our information is that it is ready and furnished for use. There are no Category A remand prisoners to use it and there haven't been any for several years. We cannot see any logical reason why Category A sentenced women shouldn't be housed in this unit and we are currently in discussion with the House of Lords and the House of Commons representatives to put questions concerning this to the Home Secretary. We have also contacted the Inspector of Prisons on this issue. It would help if others made similar enquiries.

We have approached all the women MPs and hope that they will make a deputation to the Home Secretary soon.

We still need all the help and support we can get from outside including some financial assistance.

There is a booklet available free of charge which gives the facts and information about this unit 'Women of Durham Jail' free from BBC Community Programmes Unit, 214 Hammersmith Grove, London, W6.

Parliamentary

Monday, 23rd January, 1984

Ms. Jo Richardson (Barking): To ask the Secretary of State for the Home Department, whether prisoners' medical records accompany them when they are received into penal establishments; and whether, when prisoners are released, their medical records are sent to their general practitioners.

MR. DOUGLAS HURD

In the case of any prisoner sentenced to more than two years imprisonment there are arrangements for the National Health Service personal medical records to be sent to the prison concerned as soon as possible after his reception, and for the record to be returned to the National Health Service Central Register on his discharge. In addition, every prisoner is examined by a medical officer when first received into custody, and if it appears that he was under treatment before he entered custody the medical officer may, if necessary, write to the doctor or hospital concerned to obtain further information.

Durham 'H' wing

The Womens Group Committee of the Camden Labour Party have passed a motion in support of the Close 'H' Wing campaign and will be lobbying Parliament and the Home Office for its immediate closure. We hope that this action will also be taken up by other CLP's.

THE RIGHT DIRECTION?
Havva Karabeyaz

Lord Wilberforce in Raymond v Honey[1] said that a prisoner retains those civil rights which are not taken away either *expressly* or by necessary implication.

This means that legally, prisoners have the same right as non prisoners, subject to specific exceptions. A prisoner can bring an action in the courts for assault or negligence against the prison authorities. Ownership of property, it is argued is also unaffected.

However in 1972[2], a prisoner sued in damages for the wrongful detention of a cheque that was sent to her.
Lord Denning said:-
'It must be in the discretion of the prison authorities as to how a cheque is to be dealt with. If the courts were to entertain actions by disgruntled prisoners, the governor's life would be made intolerable. The discipline of the prison would be undermined. The Prison Rules are regulatory directions only. Even if they are not observed they do not give rise to a course of action.'

Are prisoners' property rights therefore fairly unaffected? Should a prison governor be given so much power? Surely he or she should have to account for property sent to prisoners? Mrs. Becker was suing for unlawful interference of her property which was not justified by Prison Rules, how could she therefore be regarded as 'disgruntled'?

The attitude of Lord Denning is in line with Prison Rules 47(12) and 47(16) 1964 which provides that it is a disciplinary offence to make 'any false and malicious allegations against an officer' or repeatedly to make *'groundless complaints'*.

Thus, prisoners are often afraid to make a complaint because it frequently results in forfeiture of remission and privileges etc.

However, where do prisoners stand if they do want to lodge a complaint? Rule 34(8) of the Prison Rules 1964 used to state that a prisoner had no right without the permission of the Secretary of State, to communicate with any person outside the prison on any prison, legal or other business. But in Golder v U.K.[3] the European Court decided that there was a general right to consultation. The new right is not contained in Rule 37A Prison Rules 1964 and is subject to regulations made by the Home Secretary. One of these regulations states 'that before a prisoner may consult a solicitor concerning the administration of the prison, the internal complaints procedure must first be exhausted.'

Golder, therefore did not drastically change the procedure. However, it was decided in R v Governor of Wormwood Scrubs Prison, ex parte Anderson[4], that a visit by a legal advisor to advise on a prisoner's complaints about prison treatment in regard to contemplated litigation prior to the lodging of an internal complaint with the prison authorities (the simultaneous ventilation rule) was ultra vires and a prisoner was entitled to correspond with his legal advisor in regard to the contemplated litigation without first lodging a complaint through the internal disciplinary procedures of the prison.

Therefore, although there has been a step in the right direction regarding complaints, legal representation before the Board of Visitors is questionable.

It was recently decided that prisoners facing disciplinary charges at hearings before Boards of Visitors might be granted legal representation at the discretion of the boards, although they were not entitled to such representation as a right[5].

Prison Rules 49(2) 1964 state that a prisoner should be given a 'full opportunity of hearing what is alleged against her or him and on presenting his case'.

However, surely this right is restricted if the prisoner cannot have legal assistance and representation before the Board of Visitors automatically?

In fact the European Court on Human Rights considered the case of Campbell and Fell[6] and the Commision expressed the

view that there had been a breach of Article 6 of the Convention (ie the right to a fair trial). This was in part due to the fact that Campbell had not been able to obtain legal advice and assistance before the hearing of a case before the Albany Board of Visitors in 1976.

Are the Board of Visitors sufficiently removed from prison authorities to be deemed independent and impartial? Can we be sure that they will administer their discretion properly?

Therefore although it could be argued that Prisoners' Rights have improved I think that we can still come to the same conclusion as A. M. Tettenborn did in 1980 ie. 'We appear to have forgotten Lord Reid's words in Ridge v Baldwin where it is said that 'even in the case where the unmeritoriousness of a party seems in no doubt whatsoever, it is very doubtful whether that can be acceptable as an excuse' for denying that person her or his basic procedural rights. This is a salutary principle and it is only when it is properly observed, that we shall have a situation where in practice as in theory prisoners have, apart form the unfortunate fact of their imprisonment, the same rights as anybody else.'

1 Raymond v Honey [1982] 1 AU ER 756
2 Becker v H.O. [1972] 1 QB 407
3 Golder v U.K. [1975] 1 EHRR
4 R v Albany Board of Visitors ex parte Anderson
The Times 22/12/83
5 R v Albany Board of Visitors ex parte Anderson, Tarrant and others *The Times* 9/11/83
6 Campbell and Fell v U.K. – European Court Judgment pending

THE WOMEN'S RESPONSE TO THE POLICE BILL

The Police and Criminal Evidence Bill was first presented to Parliament in November 1982, and attracted enormous criticism from doctors, lawyers, civil rights, church and community groups.

Several amendments were moved on the Bill, which then fell with the announcement of the General Election in May 1983.

The new Police and Criminal Evidence Bill was reintroduced to the House of Commons on 26th October and has now reached committee stage.

The new Bill is not an improvement on the previous proposals and contains provisions to extend police powers dramatically without adequate safeguards for the liberty of the subject or any increase in the powers of police authorities to ensure accountability. Undoubtably the Bill if passed, will have particular implications for *all*

The new Bill is not an improvement on the previous proposals and contains provisions to extend police powers dramatically without adequate safeguards for the liberty of the subject or any increase in the powers of police authorities to ensure accountability. Undoubtably the Bill if passed, will have particular implications for *all* or us, in that the Bill extends police powers irrespective even of suspicion of involvement in serious crime. This can be seen in new provisions to extend powers of arrest, by including persons suspected of minor offences like parking or littering, if a person's name or address is unknown or *believed* to be false, to search the homes of persons not themselves suspected of any offence, to search the home of any person arrested for any offence and to do so even before the person is conveyed to a police station, to cordon off whole areas because of the pattern of crime there and to search persons and vehicles within it.

There are particular considerations and implications for women in the Bill, the most important perhaps being Clause 49. Clause 49 states that an intimate body search, (which consists of the physical examination of any person's body orifices – anus and vagina), may be carried out on a person detained at a police station without their consent, if there is reasonable grounds for believing that the person may have concealed an article which could be used to cause harm to her/himself or others while in detention and that it cannot be found without an intimate search. An intimate search should be carried out by a medical practitioner, but if a senior officer considers this is not practicable, by a constable of the same sex as the person to be searched.

The BMA is among groups which have opposed this clause and have stated that they would *not* carry out intimate body searches without consent as this would be contrary to medical ethics. They also consider that consent is meaningless unless it is informed consent i.e. after access to legal advice, which however is not guaranteed by the Bill for the first 39 hours of detention. As intimate body searches do not depend on the consent of the person to be searched, if the person does not consent, it is likely that intimate body searches will be carried out by Police Officers. This could be dangerous, especially if carried out by force, by untrained persons, as delicate membranes could be ruptured and a woman's interuterine device for example, could be seriously disturbed. There are no guidelines for how these intimate body searches are to be carried out or when they could constitute a sexual assault on the person searched. The Legal Action Group have said that this would constitute degrading treatment in violation of Article 3 of the European Convention of Human Rights.

There is some evidence that intimate body searches are already carried out on prostitute women and the Police Bill would legitimise this procedure and extend it. They might be widely carried out also for example, on persons suspected of concealing drugs and as this section of the Bill also applies to the detention, questioning and treatment of persons arrested by Officers of the Customs and Excise, this could have particular ethnic minorities considerations at ports of entry.

The Bill creates new powers for the Police, acting on 'reasonable suspicion' to stop, detain and search any person or vehicle in a public place for stolen or prohibited articles. Reasonable suspicion is not defined and it may be that being in a particular area with a high crime rate, at a certain time, may be sufficient for the person to be stopped and searched. This is likely to affect those sections of the community already most vulnerable to the police, ethnic minority women, prostitute women, lesbians and is not dissimilar to the 'Suspected Persons Law', so widely used against the black community and repealed in 1981.
The Bill allows the Police to use 'reasonable force' to search for stolen or prohibited articles which include offensive weapons. The definition for offensive weapons is so wide and vague that it could include items like combs and keys found in a woman's bag, if the Police believed that she would use these items in an attack or to repel an attack.

The Bill gives the Police new powers, by authorising the Police to search premises for evidence with a warrant, when the owner of the premises may not be suspected of having committed a criminal offence at all i.e. the house of a friend of a suspect held in detention, could be searched for evidence. Clause 19 states in respect of a constable who is searching any premises 'that it is immaterial that an arrest has or has not taken place or that the person who occupies or controls the premises where the search takes place is not suspected of any offence'.

The Police's right of entry is already being carried out on some Bangladeshi families in Tower Hamlets according to the Tower Hamlets Association for Racial Justice and there is widespread evidence of this occurring in other areas too. The powers to seize evidence from the homes of innocent third parties should be opposed and the right of entry is likely to be particularly distressing, where, for example, the husband is away from home and where the woman speaks a limited amount of English. The Police already have wide powers under the existing immigration laws which would become extended and institutionalised under this Bill.

New Provisions in the Bill exclude certain categories of confidential information from being seized by the Police. This provide specific exemptions on the basis of:

Social work, spiritual counselling, information of physical welfare, personal records held in confidence, items subject to legal privilege and journalistic material acquired in confidence. The exemptions will not cover research or campaigning material held by Women's Centres.
Legal definitions of journalism, social work etc. will be required by the Bill and defining exemptions will mean wholly unacceptable state regulation of journalism and social work activities. However articles can also be seized other than those which were sought, if they are evidence of *any* offence (if this is the case, the constable must record these articles on the warrant). This means that confidential files concerning individuals' health, personal welfare etc. (exempt material) can still be seized if the police can get access to offices under other premises.

In existing law an arrestable offence is one which carries a sentence of five years or more or other specified offences laid down in acts of Parliament. The Bill repeats the definition of arrestable offences but adds to them, by including persons suspected of minor offences like parking or littering, if a previous address is unknown or believed to be false. A person may also be arrested to prevent causing 'an affront to public decency'. An 'affront to public decency' is not a criminal offence and is still open to the individual interpretation of a police officer and could include public displays of affection by lesbians for example. The expansion in the new Bill is an inadequate safeguard against possible harassment of lesbians among others under this section.

A person may be kept in detention for up to 36 hours without being charged while being denied access to lawyers or family, this can be extended up to 96 hours on the authority of a magistrates court, if the person is detained for a serious arrestable offence.

The police should inform friends or relatives of the person detained within 24 hours although this can be delayed if the police have reasonable grounds for believing this will prejudice or interfere with the investigation. Thus in practice a friend or relative of a woman detained may not be informed until several hours have elapsed. The Bill makes absolutely no provision for women detained in this position, who may have dependant children at home, or aged, or disabled relatives, for whom they are responsible, this is likely to cause considerable hardship and anxiety to the families concerned.

The Bill makes a woman compelled to give evidence against her husband, if the offence charged involved an assault on, injury or threat of injury to, the wife of the accused, or a person under 16. There is no provision in the Bill for police protection for women who are compelled or who *want* to give evidence against their husbands, if they feel themselves to be in danger by doing so.

The compellability clause could effectively enable the police to refuse help to women facing domestic violence, by telling a woman if they do intervene on her behalf, she may be forced to give evidence against her husband. Many women would want time to make such a decision, especially where they feel that Court Action could lead to further violence against herself and her children, and many might be dissuaded from calling the Police for this reason. Immediate protection should not depend on the outcome of the woman's decision.

It is argued by many feminists that the law governing assaults in marriage should be the same as the law governing assaults in any other context. Thus for example they are supporting a particular bill which creates the offence of rape in marriage. If a special situation in relation to compellability is advocated, this would appear to be inconsistent with these demands.

The Police and Criminal Evidence Bill has been widely opposed by organisations, community groups and individuals, as legitimising the use of force by the police, and giving the police extensive new powers enabling them to act as a repressive mechanism of social control. This should be viewed very seriously, particularly in the light of the publication of the PSI report, (Policy Studies Institute), on the Metropolitan Police, which provides substantial evidence of consistent abuse by police officers of their existing powers within London and the dangers of extending these powers. The extension of police powers will badly affect those sections of the community already most vulnerable to the police, which include ethnic minority women, prostitute women and can only lead to a worsening of relations between the police and the public.

Fiona McLean works as General Services advisor on Women and the Police at the GLC Women's Committee Support Unit.

Headline

A prisoner coming to the WIP office reported more disturbing happenings in Holloway.

It seems that pregnant women in the prison are being transferred to Wing B4 for 'better protection'. But this wing houses remand prisoners put to Holloway for medical and psychiatric reports and the pregnant women consider this wing to be very dangerous indeed. We have asked Joy Kinsley why these transfers are taking place.

Also, prisoners in Holloway seem to be very unclear on the effects of Brittan's new parole policy and few realise that parole may be given *retrospectively*. All prisoners should be informed of this when being received into the prison. Confusion of this sort can only add to the stress inn Holloway. We have asked Ms. Kinsley to rectify this situation.

No reply from Ms. Hair in the prison department on the installation of padded cells. More reports of 'headbanging' in Holloway. One prisoner, we were told, suffering from 'kidney trouble' asked for some medication. She was assumed to be malingering. The pain became so intense she began 'headbanging' and was given a strong sedative to calm down. Some drugs can lead to renal failure. We hope the doctors in the P.M.S. realise that the assumption that all women prisoners are malingering has serious side effects.

On a recent visit to Durham 'H' Wing (name witheld)told me that she had cut herself. There were no sutures on the wing and they had to be obtained from the main prison before she was attended. The doctor who stitched up the cut refused her an anaesthetic on the grounds that if she did not mind the pain of cutting herself, she should not mind the pian of the stitching. Perhaps the good doctor was making an attempt to stop her cutting herself in future. She pointed out to the doctor that it is a different kind of pain when the stress of the moment and the cutting is over. She should have added that if she had smashed up she would have been put on report. Cutting oneself up in prison is not a reportable offence, damaging prison property is.

Women in Prison
Unit 3
Cockpit Yard
Northington Street
London WC1 2NP
Tel: 01 430 0767/8

Campaign for Women in Prison

June Battye (N.A.P.O.)
Melissa Benn (Inquest)
Jill Box-Grainger (R.A.P.)
Pat Carlen (Author of *Women's Imprisonment*)
Orna Fiegel (Community Graphics)
Jenny Hicks (Clean Break/ex-prisoner)
Moira Honnan (Stockdale House)
Havva Karabeyaz (legal researcher)
Christina Kennedy (ex-prisoner)
Patti Lampard (Women's City)
Josie O'Dwyer (ex-prisoner)
Chris Ryder/Tchaikovsky (ex-prisoner)

JUDGING WOMEN

by Pat Carlen

'If upon inquiry you discover that a woman has no children then it clears the way to send her to prison. If she has children but they are in care then I take the view that she is footloose and fancy-free and I treat her as a single woman' (Glasgow Stipendiary Magistrate 1981, quoted in Carlen, 1983).

By now it has been established that women who come into contact with either the judicial or the penal systems are either invisible to their judges, or, when visible, embarrassing (Chapman. 1981, Carlen, 1983). Maybe that is why so little research has been done to find out how British women fare in the courts and in the prisons. A further reason for such neglect may be found in the official crime statistics, a quick perusal of which suggests that on the whole men receive harsher sentences than women. Yet here, as in other areas of Government accounting, one needs to approach the official statistics with caution, to uncover some of the layers of meanings which statistics only starkly represent. Three recent pieces of research have suggested that when judges sentence women they give priority to different factors than those which they prioritise for male offenders, that the female defendant in court is more likely to be judged on her status or performance as either daughter, wife or mother than on the seriousness of her crime.

In 1978 Anne Worrall (Worrall 1981) studied the sentencing of 1,209 men and 195 women in Stoke-on-Trent and concluded that 'the most important consideration in sentencing men appears to be the offence, with other factors such as age, previous record and social enquiry reports playing a secondary role. For women, these other factors are significantly more important than for men. In 1981 I asked fifteen judges from Edinburgh and Glasgow about the factors to which they gave priority when deciding whether or not to send a female offender to prison and I concluded that they mainly decided their sentence on the basis of their assessment of the women as mother. (Carlen 1983:63). For of the twelve judges who said that they would want to find out what would happen to her children if a woman went to gaol, three stated that they would want to find out not only if the woman was a mother but if she was a *good* mother; and five more judges (and one of the stipendiary magistrates) said that if the woman's child were already in care then they would be more likely to send her to prison than if her children had been living at home with her. Additionally. three judges mentioned that family. husband and children act as good disciplinary controls on a woman and that if she is living at home within a conventional family consisting of husband and children then the female offender will be less likely to reoffend in the future.

The most recently published research broadly supports the conclusions of both Worral and myself. Farrington and Morris (19831 and 1983b) analysed information taken from the records of the Cambridge City Magistrates' Courts during the first half of 1981 with the aim of investigating whether the sex of the defendant was related to sentencing and reconviction independently of other variables. After sophisticated statistical analysis they concluded that though women were sentenced more leniently and had a lower probability of reconviction during a two-year follow-up period. . . these sex differences disappeared after allowing for the fact that women committed less serious offences and were less likely to have been previously convicted. Some factors (notably previous convictions) had an independent influence on sentence severity and reconviction for both men and women, but others only had an influence for one sex. *In particular, marital status, family background and children were more important for women than for men.* (Farrington and Morris, 1983a: 247, my emphasis.). 'Women who were . . . (predominantly divorced or separated. . .) received relatively severe sentences as did women from a deviant family background (coming from a broken home usually . . .) (Farrington and Morris 1983a: 603). As Farrington and Morris themselves emphasise, 'exactly how these factors have their differential effects on magistrates' sentencing and on reconviction remains to be determined in future research' but, overall, the findings presented here cannot be reassuring to those women who, already aware that they are not living conventional family lives may now also note that their very unconventionality as daughters, wives and mothers may go against them if ever they are so unfortunate as to appear as defendents in the criminal courts.

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PRISON BRIEFING No 7

prop the national prisoners' movement

BM-PROP, London WC1N 3XX.
Telephone: 01-542 3744.

MEDICAL CHANGES AT GARTREE

Why prisoners should have NHS care

Allegations against the Prison Medical Service are difficult to sustain, though their sheer number and the regularity with which they appear indicate an underlying scandal which no amount of Home Office cover-up or doctors' threats of libel writs can dissipate. Two of the most litigious - Dr Peter Smith, dubbed "Doctor Death" by newspapers at the time of the Gartree prison riot of 1978, and Dr Brian Cooper of Parkhurst have been longest in the firing line. Their respective prisons have been notorious for their widespread use of control-drugs since at least the early seventies - and have since been joined in notoriety by Brixton and by various women's prisons whose reliance on drugging by far exceeds even the most drug happy of male prisons.

ABOLITION OF THE PRISON MEDICAL SERVICE

Since its inception PROP has been pressing for the abolition of the Prison Medical Service and for the transfer of responsibility for prisoner-patients to local doctors operating through normal NHS channels. Such a change implies a patient's choice of doctor and an overview of medical standards by Community Health Councils, the General Practitioners Council, District Health Authorities - and the simultaneous removal of control from the Home Office and its Prison Department.

As this issue of PRISON BRIEFING demonstrates, there is a great deal more wrong about prisoners' medical care than over reliance on drugs, yet the insidious nature of drugs which tamper with the mind, and the frequently unforeseen side effects which often come to light only years after particular drugs have been in regular use, mean that drugging remains central to our concern.

Recent changes at Gartree for once enable us to make the case for disbandment of the Prison Medical Service without casting any slur on Dr Smith, whose tender mercies were transferred last year from Gartree prison to Leicester prison. His place at Gartree has been taken by Dr J.M. Hall, of whose activities we have been receiving consistent reports for many months.

DIFFERENT MEDICAL OUTLOOKS

Where Dr Smith reached for the bottle and the syringe, Dr Hall opts for exercise and fresh air. Prisoners seeking medical advice and expecting, and frequently hoping, to be prescribed drugs, are now told instead to get along to the gym for a two hour work-out. Sounds robust, healthy advice and we are certainly not criticising it.
In fact there is no need for us to make any value judgements and we are quite prepared, for the sake of the point we are making, to assume that Dr Smith's particular medical philosophy is a valid one, as is the contrasting prescribing style of Dr Hall. Taken together, they demonstrate the wide gulf that exists amongst all doctors - outside or inside prisons - regarding the use of psychotropic drugs.

THE NEED FOR CHOICE

When we come across this sort of thing in the High Street we can, if we are sufficiently disturbed by it, change our doctor for one more to our liking. The prisoner has no such option. He or she is lumbered with whatever medical fad or fashion is in vogue at a particular prison. And if he or she is moved from prison to prison - a frequent occurrence nowadays - there is the chance of moving from one extreme to the other, and back again.

This cannot be right. When a judge or magistrate sentences someone to prison he should not simultaneously be sentencing him or her to one particular medical philosophy. It doesn't matter whether Dr Smith is right and Dr Hall is wrong, or the other way around, or whether they are both right or both wrong. The issue is that the patient's wishes and needs - and the greatest need is for confidence in the medical treatment that he/she is receiving - are nowhere being considered.

PRISONERS' MEDICAL RECORDS

The theory . . . . .

On 23 January 1984 Jo Richardson MP (Labour, Barking) asked the Secretary of State for the Home Department whether prisoners' medical records accompany them when they are received into penal establishments; and whether, when prisoners are released, the medical records are sent to their general practitioners.

Mr Hurd (for the Home Office): "In the case of any prisoner sentenced to more than two years imprisonment there are arrangements for the National Health Service personal medical record to be sent to the prison concerned as soon as possible after his reception, and for the record to be returned to the National Health Service

central register on his discharge. In addition, every prisoner is examined by a medical officer when first received into custody, and if it appears that he was under treatment before he entered custody the medical officer may, if necessary, write to the doctor or hospital concerned to obtain further information."

PROCEDURES FOR MEDICAL RECORDS

At the end of 1983 the Home Office issued a circular instruction to all Prison Department establishments laying down new procedures for the recording and storage of medical records. The issue, it says, "was brought into focus by recommendations about administrative procedures in prison hospitals made by a coroner following the inquest on the death of a prisoner in Birmingham prison in 1980."

The time lag between the inquest and the Home Office's circular demonstrates the lethargic manner in which matters relating to prisoners' wellbeing are conducted. One would imagine, from the long delay, that some extremely scientific and computerised system was being evolved. But no, that sort of thing is OK for criminal records but apparently not for medical documentation.

A NEW STREAMLINED SERVICE!

What is the wonderful new system which has taken so long in gestation? "The system to be used (says the circular) is based on the commercial Kardex system and comprises record cards – a white one for use in out-patient treatment rooms and a blue one for use in hospitals – and compatible office equipment for their storage." In other words a card index with filing cabinets!

In fact the Home Office's lethargy is a great deal worse than a three year time lag makes it seem. Such a rate of progress, by Home Office standards, would have been almost supersonic, and the same circular makes it clear that this great project has been ten years in preparation: "In 1974 a working party concerned with medical documentation recommended that a card index system should be introduced to streamline the recording of the prescription and administration of medical treatment, and trials were subsequently carried out at selected establishments."

From the phraseology one would imagine they were planning to put someone on the moon rather than instituting a simple system which any junior filing clerk could have set out for them. Perhaps they should now employ such a clerk to supervise the comprehensive training which this sophisticated new system will require because they seem to be making customary heavy weather about this too: "To ensure that the principles are applied consistently throughout the service, hospital chief officers and senior nursing staff have received training at Headquarters. They in turn have instructed other hospital staff in their own and satellite establishments."

☆ ☆ ☆ ☆

RESPONSIBILITY FOR RECORDS

None of the above implies that prior to the issue of this circular instruction there was no requirement on prison medical officers to maintain proper records. Pages 2, 2a, 3 and 4 of a prisoner's record file (Form 1150) all refer to medical matters. Page 4 which has been in use in this form for over twenty years makes the requirement for a continuous medical history absolutely clear, as the facsimile below illustrates.

REG. No. NAME

CONFIDENTIAL

CONTINUOUS MEDICAL HISTORY

This page is intended to provide a continuous medical history passing from one sentence to another. The Medical Officer at each prison through which prisoner or trainee passes should add a note on any salient medical features or occurrences, or of any pertinent information which comes to his notice. This will assist future Medical Officers to know to whom to apply for relevant information and will enable them to acquaint Governors of any incidents of which they should be made aware.

This page will be retained by the Medical Officer during the sentence and be inserted in the record on transfer or on release.

Establishment and date		Signature of Medical Officer
No. 1150 (page 4)	(24402—3-9-52)	P.T.O.

So that, with or without the new sophisticated 20th century techniques of card indexes with separate white and blue cards, the Prison Department's responsibility for maintaining a proper running record of prisoners' medical histories, is clearly stated in its own internal regulations.

...... and the practice

NEGLECT AND LACK OF CARE VERDICT ON HULL PRISONER RICHIE OVERTON

FAMILY INVOLVEMENT VITAL

On 24 July last year Richard (Richie) Overton died in the Princess Royal Hospital, Sutton, Hull, a few hours after his urgent transfer there from Hull prison. Within days of his death PROP received smuggled messages from fellow prisoners disturbed at his treatment or, more accurately, his non-treatment by the Prison Medical Service. We attempted desperately to contact the family and broadcast two public appeals, on Humberside Radio and on the local radio at Stoke-on-Trent. We also communicated with INQUEST, the investigative and monitoring pressure group concerned with deaths in custody. They too tried to contact the family.

There is no legal aid available for the representation of prisoners' families at inquests. In addition many families, until they have been through the procedures, assume that a coroner's court will have both the intention of getting at the truth and the

expertise to do so. Far too often they have neither.

In cases where our or INQUEST's understanding is that the circumstances surrounding a prisoner's death are suspicious or point to negligence of one form or another, it is usually possible to arrange representation through public spirited lawyers. It could certainly have been arranged in this instance.

With no response from the family, we were powerless to act. Elaine Pooley of PROP did however maintain a watching brief throughout the entire proceedings of which we have a nearly complete transcript.

THE BACKGROUND

Overton was sentenced in July 1981 to 3 years imprisonment and was sent first to Walton Prison, Liverpool, then to Onley Borstal and subsequently to Nottingham Prison where he arrived in March 1982.

In Nottingham he complained of pain in his left testicle and was referred to Nottingham Hospital where he was found to have teratoma and was operated upon for the removal of the left testes and a section of abdominal lymph glands. The surgeon informed him that he should be monitored every three months for recurrence.

In November 1982 Overton was released on home leave when he committed further offences and was again taken into custody. On 28 January 1983 he appeared again in court and was sentenced to 8 years and taken again to Walton Prison, Liverpool. On arrival at Liverpool he was seen by the Medical Officer who sent off to Nottingham Prison for case notes.

Three months later he was transferred to Hull Prison where he was examined by Dr Shores, an outside doctor who works part time at the prison. A week later an application was again made to Nottingham Prison for case notes. Meanwhile Dr Dass, a Medical Officer at Liverpool Prison discovered "by accident" that Overton has been moved to Hull. "I then grabbed the file and put it in the post to Dr Chan, the Prison Medical Officer at Hull." The records from Nottingham Prison, asked for by Liverpool in January had still not caught up, and in fact never arrived at Hull until after Overton's death in July, so that the Liverpool records on their own were of limited use.

EVIDENCE OF FELLOW PRISONERS

The evidence of fellow prisoners was crucial to the eventual verdict. The first was in a written statement by David Martin:

"Richard Overton was a very quiet young man who did not mix much with other inmates. He had complained to me several times about stomach pains and pains in his legs. He reported sick several times but was always considered 'fit for work'.

On 21 July Overton reported sick during the morning with stomach pains and he was limping. Dr Chan said he was fit for work. While Overton was in the shop Civilian Instructor Mr Moat noticed his illness. He phoned the hospital wing to ask about his illness but they said he had been passed fit for work that day. Mr Moat excused his work that day and allowed him to sit down all day.

The following day Overton again said he was sick. Principal Officer Smith told Overton to lie down in his cell. But when he contacted the hospital wing they said he was passed fit for work by Dr Chan. Mr Smith then told Overton he had to report for work. Overton replied that he was too ill so he was taken down to the segregation unit where the outside Dr Shores and the Deputy Governor noticed his distressed state. He was kept there till Dr Chan came back on duty.

On Saturday 23 July he was found to be in a very distressed condition and had messed himself in his bed. A doctor came to help relieve his pain. On Sunday 24 July Dr Shores took Richie Overton to the hospital wing and then had him moved to an outside hospital.

We at HMP Hull are very concerned at the lack of medical care in this prison. It was obvious to all that this man was very ill. We ask that this matter be thoroughly investigated. There are many complaints about Dr Chan and the lack of medical care given to inmates."

LACK OF MEDICAL CARE

A second prisoner, Alan Howell, on parole at the time of the inquest, said in his statement:

"Overton was from my home town of Stoke. I was in Cell 11 when he first came. He told me he had had an operation for cancer in his stomach. He complained over a few weeks about pains in his stomach. He was frightened about going back for check-ups. He used to use the running track a lot and then suddenly stopped running and looked nervous and ill.

At 9 pm on Friday night one of the prison officers asked me for a box of tissues to give to Overton because of him having diarrhoea. Next time I saw him was Saturday lunchtime. He told me he had been nicked by the Governor. He showed me his stomach. It was real swollen. At 6 pm on Saturday he was half sat on his bed and locker. I could see he was in pain. He had made a mess in the bed, like water, and I cleaned it up with his underpants and tissues.

At 7 pm he was limping down the wing with a Principal Officer. He said he was going 'special sick'. I was told that there was nothing staff could do as they could not overrule hospital staff. Later on he rang his bell and a prison officer came. Sometime after this I heard someone say he had been given an injection. On Sunday he had an injection and felt a bit better. A specialist came to see him and he was moved to the hospital wing. I never saw him again. That was 24 July."

The Coroner then asked Howell if there was anything he wanted to add to his statement. He replied "Yes, just that we are all concerned about the lack of medical attention we get in Hull Prison."

YOU COULD SEE HE WAS GOING TO DIE

James Briggs was another fellow prisoner examined by the Coroner. Briggs had met Overton previously while both were at Walton Prison, Liverpool:

Coroner: "Did he complain of being ill when you met him again in June 1983?"
Briggs: "Yes."
Coroner: "Did he report sick regularly, even then?"
Briggs: "Yes, in June."
Coroner: "Did he report 'special sick' and regular

sick in that time?"
Briggs: "Both."
Coroner: "So he was reporting sick almost daily. Did he tell you what was wrong with him?"
Briggs: "He said he had pains in his legs and stomach."
Coroner: "Did he stop exercising?"
Briggs: "Yes, he stopped totally at the end of May."
Coroner: "On Friday 22 July he refused to work?"
Briggs: "I saw him at brewing up time, 10 am. He told me he had been nicked for refusing labour because he couldn't get out of bed."
Coroner: "Did he receive medical attention?"
Briggs: "Yes, a hospital medical staff came down. He had soiled his sheets."
Coroner: "When did you next see Overton?"
Briggs: "Sunday morning. He was in the showers. His speech was slurred and he was wobbling about."
Coroner: "Have you anything else to say?"
Briggs: "Yes, only that on Saturday a doctor saw him and declared him fit to go before the Governor. You've got to be declared fit to go before Governor."
Coroner: "Anything else?"
Briggs: "Yes, you only had to look at him to see he was going to die."
Coroner: "Is this what caused the bad feeling in the prison?"
Briggs: "Yes, when the neglect started."
Solicitor for Dr Shores: "Could there be any doubt about him being declared fit?"
Briggs: "You have got to be declared fit to go in front of the Governor. Otherwise you don't go in front of him until you are. I've been on many Governor's reports. I know what happens."

CONCERN BY THE CIVILIAN INSTRUCTOR

The statement by Mr Moat, the Civilian Instructor in the woodwork assembly shop, confirmed what had been said by fellow prisoner David Martin: "At 9.20 am 21 July 1983 I saw Overton sitting down in the shop.

I told him to go on with sweeping the floor. Said he was too ill. I told him he should have reported sick. He said he had but the doctor had passed him fit for work. Overton said he still felt too sick. At 9.30 an inmate approached me saying could I help Overton as he was ill and dying of cancer. Overton asked me if he could go back to his cell. I arranged for Overton to be escorted to the hospital wing at 10.40. That was the last time I ever saw the man. He had been in the workshop for three weeks but had not complained before of being ill. He did not look a well man in that time.

. . . . AND THE WING OFFICER

Next day Overton, who had been returned to his own wing, went to see Principal Officer Smith in the wing office. Said Smith: "He looked ill and I rang the hospital wing. They said they were aware of him and that he was receiving treatment. I told him this and told him to report to work. He didn't so I had to put him on a Governor's charge. Aware of his being ill I put him on the list for later in the day."

. . . . AND THE GOVERNOR

The picture was now emerging of a man who was terminally ill and for whom concern was being shown by everyone around him - except some of those specifically charged with medical care. Overton came up before the Governor, Deputy Governor Stephen Twinn, later on Friday. In his statement Mr. Twinn said: "When I saw him he complained that he had been declared fit for work. He looked ill to me. His face was grey and lined. He was bent forward from the waist and was rubbing the back of his legs. I was told by Mr Young (Hospital prison officer) that he was receiving treatment. This was said with some conviction. He looked as ill as ever to me when I saw him again the next day. I returned him to his normal location and resolved to await the return of Dr Chan before making any other decision."

In answer to questions from the Coroner Mr Twinn confirmed that he felt Overton was not fit for work.

Coroner: "But Dr Chan had declared him fit for work."

Twinn: "Yes, I believe so."

THE PART TIME DOCTOR

In Dr Chan's absence it was the outside doctor, Dr Shores, who was called to the prison on the evening of Saturday 23 July. Overton had rung his bell for a doctor and the wing Principal Officer Smith immediately contacted the control room. As a part time doctor Dr Shores was clearly in some difficulty, as was made clear in his own evidence: "I first saw Overton on 23 April on his reception when he asked to see an optician. The second time was on 23 July during the day when I declared him fit for work..... Later that night I was again called to examine Overton. I immediately saw what was wrong with him on that occasion. I contacted Dr Heslop (at Princess Royal Hospital) as I felt that Overton had secondary cancer of the liver."
Coroner: "But you did pass him fit for work when you saw him earlier in the day, didn't you?"
Dr Shores: "Yes, but it is not my practice to disagree with my colleagues who had seen him on a regular basis."

THE OUTSIDE SPECIALIST

On Sunday 24 July Dr Heslop attended HMP Hull and examined Overton in the prison hospital. "I confirmed that his liver was badly swollen and the implication was that he was heavily infiltrated with malignant tumours. I wanted him at the hospital to enable me to carry out x-rays. If these had proved positive I would then have asked for him to be transferred to a hospital for terminal care. As it was, he died peacefully in his sleep at 20.15 hours later that day. At the post mortem that day at which I was present his liver was five times its normal weight. That position would have taken several months to occur and in no way could it have happened over a few weeks or a day or so."
Coroner: "At the stage you saw him there was no treatment you could have given him?"
Dr Heslop: "No, it was really more a case of making his condition more comfortable. Deputy Governor Twinn raised the possibility with me of a pardon being granted. The condition of Overton when I saw him was terminal."
Coroner: "So being passed fit for work did not accelerate his death?"
Dr Heslop (after a long pause) "No, it didn't affect his physical condition but it certainly did nothing for his mental wellbeing" (said with vehemence).

DR CHAN OF HULL PRISON

Dr Kim Yew Chan, the Prison Medical Officer for Hull Prison, was asked about the medical records:

Coroner: "You requested Overton's case papers from HMP Nottingham on 28 April but you didn't have these case papers when you examined him on that day?"
Dr. Chan: "No."
Coroner: "Did you have the form 1150 (the prisoner's record)?"
Dr. Chan: "Yes."
Coroner: "That was delivered to HMP Hull with him. Was it from this file that you diagnosed his possible illness?"
Dr Chan: "No, there were two pages missing. It was only from questioning Overton that I discovered this."
Coroner: "He said that he had been into hospital on two occasions?"
Dr Chan: "Yes, but the Nottingham prison case papers did not arrive until after his death."

Coroner: "But the hospital papers came back in May (Chan had also requested these on 28 April) saying that he should have three-monthly tests."
Dr Chan: "I asked Overton had he gone back for check ups. He said he hadn't. I had to impress on him how important these were. He was agreeable to doing this. On 22 June I made a request for an appointment with the hospital at Nottingham. It was arranged for 27 July." (by which time Overton was dead)

GROSS NEGLIGENCE

PROP's view of this interchange is that it demonstrates not only gross negligence on the part of Nottingham Prison in not forwarding Overton's medical records but a corresponding acceptance of this state of affairs by both Liverpool Prison, which had Overton for three months before he was sent to Hull, and of course by Hull Prison. Taken together these failures point to the wholesale administrative incompetence of the Prison Department itself, and specifically of its Prison Medical Service. In the case of Dr Chan, there is also of course the question of the long delay between receiving the hospital papers which made clear the need for regular check ups and the request for an appointment.

When Dr P. J. Hynes, Deputy Director of the Prison Medical Service, gave evidence, it merely added to the confusion. Coroner: "The form 1150 is the only medical record which remains to a prison where the inmate resides?"
Hynes: "That is right."
Coroner: "I still find it very surprising that, after reading the Home Office's regulations about the form 1150 that Overton's 1150 does not record any information on his testes operation or indeed if he is to be tested again."
Hynes: "When a man absconds, for example, it would take time to catch up with him again."
Coroner: "Is there any central registry for the medical records of prisoners?"
Hynes: "No, it had been proposed several years ago that a central system should be set up for all medical documentation but because of lack of funds this has not been implemented."
Coroner: "On reception at Hull Dr Shores recorded him fit as did four previous prisons. And since he had been to four other prisons already recently he did not feel obliged to give him a thorough examination. The day before, he had been seen by a doctor at Liverpool and passed fit."

NEGLECT AND LACK OF PROPER CARE

At the end of the proceedings the Coroner instructed the jury that there were two possible verdicts, Death by Natural Causes and Death by Natural Causes but aggravated by neglect and lack of proper care. "I am of the opinion that I must leave this possible verdict open to you. There is sufficient evidence before you to consider this verdict."

It took the jury only fifteen minutes to return the verdict of Death by Natural Causes but aggravated by neglect and lack of proper care.

It was, we believe, the proper verdict. The surprising thing is that it was returned without legal representation for the family. It is not difficult to see that, in the hands of another coroner, the result might have been different. Also, even though legal representation could not have achieved a more suitable verdict, there is little doubt that many pertinent questions weren't asked - for example, about the meaning and intention of page 4 of the form 1150 (see page ii). There are other questions which are probably best left until they can be put to the test in some future case.

The entire proceedings underline the urgent need for prisoners' health to be transferred to normal NHS procedures, and for the provision of legal aid for representing the families of all those who died in state institutions.

PROP is passing its files on this matter to the specialist group INQUEST.

MOTHERS AND BABIES IN PRISON

Styal offers 'excellent care .... first class....couldn't be better' says Judge

THE ARROGANCE OF THE JUDICIARY

"Nursery units in Her Majesty's prisons are excellent" said Lord Justice Lawton as he dismissed an appeal by 17 year old Andrea Thomas against a 12 month youth custody sentence for robbery. Andrea, a young black woman three months pregnant at the time of her sentence, was five months pregnant at the time of her appeal. To have served two and a half months at her age and in her condition should surely have been enough for any court of appeal concerned with issues of humanity.

Nothing at all to do with pregnancy of course, but we have since had the spectacle of Lord Justice Lane, in dismissing the appeal for Sarah Tisdall (the woman shopped by THE GUARDIAN), describing her as arrogant in taking it upon herself to decide that she should break the law by leaking information which she felt the public had a right to know. Then, after admitting that a six month sentence would have no deterrent effect on the politically committed, he went on to say that "in our judgement it may well have a deterrent effect on people of the same type" as Sarah Tisdall.

Fortunately a great many people recognise that Sarah Tisdall's actions had a great deal more to do with political

commitment than those of most politicians, and much more to do with liberty than the pompous absurdities expressed by many judges. As for arrogance it is surely the judiciary which displays this attitude more than any other body of people in the land.

SELF FERTILISATION

To return to the case of Andrea Thomas, Lord Justice Lawton made the further inane remark that "the mere fact that she got herself pregnant ..... could not possibly be a reason for not giving her a similar sentence" to a young man in a similar case. Just how she achieved this remarkable feat he did not attempt to explain. Up until now I had always understood that Lord Justice Lawton was the son of a particularly notorious governor of Wandsworth prison, but maybe he knows something that the rest of us don't and he is really the product of some virgin birth. Judges are, after all, supposed to take pride in the precision of their language.

Lawton went on to say that Andrea Thomas would probably be sent to Styal prison in Cheshire and would get first class antenatal treatment. "After the baby is born, in circumstances which could not be better from a medical point of view, she will be given help in learning to bring up this child."

We hope that Andrea will not have to share the experiences of the following seven women prisoners in Styal - all recent cases and all written up by eye witnesses. We know the names in each case and in half a dozen others, and we are passing our whole dossier over to the group WOMEN IN PRISON which is better infonned than us on such matters, as well as being the more appropriate body to follow the cases up.

How one Styal prisoner fared

AAA is serving a sentence for cheques. She has two daughters who are being looked after by her mother. She was pregnant when she was sentenced. She had been advised that her pregnancy would be difficult as she had Rhesus Negative blood. Immediately prior to being sentenced she had been attending the Queen Elizabeth Hospital in Birmingham, and had been advised that she would have to have the birth induced at 7 months. As you know the build up of antibodies in the blood can cause all sorts of problems with both mother and unborn child. Eventually, after her parents complained to the Home Office that she was receiving no treatment, i.e. regular blood monitor checks, etc., she was advised by the 'hospital' at Styal that her blood had changed. In fact it was later discovered that it was yet another mistake. Periodically, of course pregnants would go to Wythenshawe Hospital in Manchester for antenatal care. Most of the girls hated going as it was clear from the staff's attitude that they were 'prisoners', and were treated very much as another race. When she eventually gave birth to her son, he was critically ill and in the intensive care unit with jaundice and other complications. As you can appreciate this was a very serious situation and almost cost an innocent victim his life, due essentially to the negligent attitude of the 'Hospital' at Styal.

and a second

BBB was doing a short sentence at Styal for breach of a probation order.

She had lost a baby the year before, and advised the medical staff at Styal about this. She was told such a situation was unimportant, and she had to still scrub floors. She started to lose blood and a couple of days later she started in labour. Her pains actually started early evening. Twice the nurse was called and each time the nurse was rude and abrupt. Finally at 4.0 am an ambulance was called. She was forced to walk up the driveway in her condition. The following day she gave birth to a daughter who lived 24 hours. Later she came back to finish her sentence at Styal. She had been told by the outside hospital that if she had gone in sooner the baby would have been saved.

a third

CCC was pregnant with her first baby. She was 17 years old. She suffered blood loss for 4 days before she finally lost the baby on the floor of the dorm floor. Again classic negligence.

a fourth

DDD didn't realise she was pregnant until she had a pregnancy test whilst on remand at 'Grisly Risley'. She was about forty years of age, and was terrified that the baby would be malformed in some way. She kept asking for tests etc, as at her age her fears were of course justified. Eventually, on leaving prison she went to her own doctor who referred her to a hospital in the town where she lived. She had to have a therapeutic abortion. By this time she was almost 7 months pregnant. Could this not have been discovered earlier and spared her such an eventual loss after carrying the child for 7 months.

a fifth

EEE was expecting her second child and serving a sentence for shop lifting. She was a very small black girl and during her first pregnancy 12 months before, she had suffered from vitamin deficiencies and had spent some considerable time of her pregnancy in hospital. Whilst at Styal she had blood loss on a number of occasions. Eventually, it was only on the insistance of the House Officer that she was sent out to the outside hospital. Her baby was saved. None the less after the immediate crisis was over, she was back again at the prison 'scrubbing'.

a sixth

FFF was serving 12 months for burglary. She had two other children being looked after by her mother. It was the third pregnancy, she was 19 or 20 years old. She could not read or write and would often get upset if she were given a task which involved either of these things. During the hot summer of '83 she suffered with severe backache. She saw Sister Gribble on Mellanby House who told her to take things easy and do only light work. The following day unfortunately that Sister was off duty. It was equally unfortunate that our regular House Officers were not available, and we had a Miss Stott. She was a young screw unfamiliar with problems of pregnancy. FFF was ill again and passed on what Sister Gribble had told her to do. Stott checked with the sister on Memmlanby, and with the usual prison efficiency, no communication had been left. Stott accused her of lying and made her scrub walls in the Dining Room. I was horrified to see her condition when I went through into the Dining Room. She had to stand on a chair stretching up the wall. Her face was like death and she was sweating profusely. She started to topple over and a couple of us dashed forward and caught her as she fell off the chair. She did not have to finish the scrubbing of the walls. After that however, she was ill and kept losing blood. It was eventually discovered that the afterbirth had dropped. Stretching could have caused it. She had a difficult period up to the end of her pregnancy.

and a seventh

GGG was aged 19 and was a gifted and talented writer who had her first article accepted whilst she was in prison. She is a black girl, very independent and particularly interested in human rights. Prison was a great hardship for her. I think her offence was growing a 'pot plant'. She refused to blindly obey an instruction that she had been given. I and others saw her dragged down the staircase and thumped by one of the officers, a Miss England, the PE Instructor. She was taken to 'Bleak'. She complained to the Deputy Prison Governor, Mr. Parkinson, that she had been beaten, and dragged down the stairs by her hair. He said none of his officers would hit a pregnant woman. She stated that she had witnesses. Parkinson told her that these people could face discipline if she called them. She therefore withdrew the complaint. She lost some days remissions as a result of this incident.

.....all just like the man said!

STAFF IGNORE INSTRUCTIONS

CONTINUED RULE-BREAKING AT ASHFORD

Nothing more clearly demonstrates the low priority accorded to prisoners' health and wellbeing than the situation at Ashford Remand Centre. The verdict of Lack of Care returned at the inquest on Jim Heather-Hayes in July 1982 led to such widespread concern that the Home Secretary, then Whitelaw, asked the Chief Inspector of Prisons, when inspecting Ashford, to pay particular attention to the establishment's observance of central instructions and guidance on the prevention of suicide. The inspection took place in March 1983 so that the prison had nearly nine months to put itself in order.

Since the open verdict returned at the inquest on Stephen Smith who died in Wormwood Scrubs in 1974, there has been a succession of cases at various prisons where the authorities have been challenged on their non-compliance with their own rules and regulations. In the suicide or so-called suicide cases this has largely centered on the procedures for identifying potential suicide risks and the precautions laid down to minimise those risks. In other words the entire prison system has had ten years to impress upon its employees, and especially the medical ones, some sense of discipline.

PRISON INSPECTOR'S DAMNING REPORT

The Inspector's report on Ashford is absolutely damning on these matters. "We noted that the F marking system was not operating effectively ..... we were not satisfied that Ashford staff were clear where responsibility for making this mark lay. And, more important, they were under the mistaken impression that Standing Orders permitted discretion in the use of the F stamp ..... We advised the Governor that Standing Orders should in future be adhered to." (The F mark is the red stamp which marks the record sheet of a prisoner with suspected suicidal tendencies. This is precisely the regulation which, in its non-observance, has been the cause of most verdicts adverse to the authorities.)

An equally blatant disregard to prisoners' wellbeing was indicated by the Inspector's observations that "the system for reporting an inmate's refusal of meals was not operating effectively. We drew this to the attention of the Governor." (It was in 1980 that the young Rastafarian, Richard Cartoon Campbell, was allowed to die of, according to the inquest verdict, 'self neglect'. As a direct result of his death, also at Ashford, and the furore which it raised, the Home Office issued new circular instructions and an amended Standing Order, emphasising the precautions to be taken.)

STANDING ORDERS DISOBEYED

In his conclusion the Inspector remarked that "the procedures in use differed significantly from the requirements laid down by Standing Orders. This was particularly so in relation to the reception procedures, the F marking, and the weight given (by medical staff) to key factors in an inmate's background when assessing the propensity to suicide."

If that is still happening at Ashford, after all its grisly experiences of the past few years and its forewarning of inspection, does it not suggest an even worse situation at prisons which have so far avoided the notoriety? And what is the Home Office doing in keeping at their posts a Governor and a Medical Officer who, between them, have presided over this wholesale disobedience of orders?

Prison Rule No. 47 (18) states that a prisoner "shall be guilty of an offence against discipline if he disobeys any lawful order or refuses or neglects to conform to any rule or regulation of the prison." The most significant breakers of rules in our prisons are the authorities themselves.

THE DILEMMA OF PRISON REFORM

Nowhere is the dilemma involved in prison reform better demonstrated than in the article by Martin Wright in this issue of THE ABOLITIONIST. Martin Wright was for ten years director of the Howard League for Penal Reform, representing by far its most radical voice. Last year his book MAKING GOOD was published, further establishing his reputation as a consistently humane exponent of penal reform.

It is particularly good to read his swift put-down of the proposals for part-time weekend imprisonment which have regrettably been welcomed, in the name of reform, by the Parliamentary All Party Penal Affairs Group and others. And his lobbying for a moratorium on new prison building continues to sit, though rather quietly for someone who has been its main protagonist in this country, behind the various proposals which he puts forward.

A EUROPEAN CONTEXT IS ESSENTIAL

Even at the risk of boring those who are knowledgeable on the subject, I believe that Wright should have spelt out, yet again, the sheer scale of the UK prison system. It is only when we remember that this country has so many prisoners that it could release 10,000 of them and still have a prison population that is a disgrace by the standards of nearly all our European neighbours that we can sensibly read any article on penal reform.

The recent NACRO proposals for Minimum Standards make the same error of, in their case, not merely insufficiently stressing the background but not mentioning it at all. Without a clear statement of the total unacceptability of present levels of imprisonment, or anything like them, proposals for improved physical conditions become arguments (or at any rate will be used as such by the authorities) for the spending of yet more resources on prison building. The reduction of our prison population to the level of the next country in line to ourselves (France), but still ahead of everywhere else except West Germany, would not only wipe out overcrowding at a stroke but would enable just about all the minimum standards, including integral sanitation, to be introduced

THE PURPOSE OF 'LAW AND ORDER'

There is, says Wright, an urgent need to clarify the aims of the law enforcement apparatus. Then he gets into the debate, which has been going round in circles for decades, about deterrence, treatment, rehabilitation and, now, reparation and reconciliation. The trouble with this whole rhetorical approach is its irrelevance to the real reasons for the law enforcement apparatus.

'Law and order' and the whole set up of police, courts and prisons in a class society are not there to reduce crime. The very fact that they don't, ought to be seen as proof of that. They are in fact a substitute for doing something about crime. They divert public attention from the causes of crime by offering a pretence of getting to grips with it.

PRISON REFORM HAS PRODUCED TODAY'S PRISONS

To the prisoner rehabilitation sounds a good deal better, and is better, than deterrence. To both the 'offender' and the 'victim' reparation and reconciliation may be a good thing. For society as a whole, even though it doesn't recognise it, a far smaller prison system would be a good thing - if only for the reason that the less one has of something that doesn't work, the better.

Penal reform has always concerned itself with such good things. That is why we have today's gruesome prison system - a good thing by comparison with the hanging, flogging, transportation and other inhumanities of a previous era. If the reformers, rather than the law and order lobby, get their way, we will in years to come have erected a new structure for punishment, coercion and control, and moved away from imprisonment towards more subtle denials of liberty. Instead of the comparatively easy target for liberal criticism - the uniformed prison officer - we shall have the more acceptably professional doctors, psychiatrists and social workers. And, precisely because it will all be more acceptable to liberal opinion, we will almost certainly end up with a great deal more of it. Then, in another fifty years (assuming that we haven't all been blown up in the meantime, which seems far more likely) the reformers will be at it again, dreaming up yet more subtle methods for not dealing with crime.

PROP AND PRISON REFORM

Because PROP is concerned about prisoners it has also to be concerned about reform. We push the Dutch example because we would like to see our prison population reduced to the equivalent size of 12,000, or even a third of the way towards it. But we never pretend that this would have any bearing on the crime rate, one way or the other, any more than would the doubling of the present prison population to 88,000.

If what you do or don't do about law enforcement is irrelevant to the crime rate, as we would say is the case, then a penal reform which lays any claim to crime prevention is necessarily conceding the relevance of the opposite standpoint of law and order. They represent the two poles of an artificial and sterile argument.

Penal reform is a worthwhile, humane pursuit. Much of PROP's activities are concerned with it, as are all prisoners' struggles, but we must never make such claims for it that we divert public attention from what has to be the starting point of any serious intention to curb antisocial behaviour - identifying the forces in society which feed it. (GC)

(A PROP view from that starting point will appear in the next issue of THE ABOLITIONIST / PRISON BRIEFING)

Myra Hindley's court victory

One legal victory of the past year has been insufficiently acknowledged by PROP - the successful action by Myra Hindley to stop the SUN newspaper publishing her parole application. She claimed breaches of copyright and confidence, and the courts conceded that prisoners would be inhibited from writing freely to the Parole Board if they feared their confidential reports could be leaked and published in a national newspaper. The SUN tried to get round the copyright argument by claiming its right to publish extracts from Myra's statement in order to be able to criticise it "as a literary work" - a brazen claim by a newspaper which can rarely string two words together in a literate manner. Myra's victory carries important implications for prisoners' rights to privacy, and is a timely reminder that legal gains don't just happen out of the blue: they are won by prisoners' action.

INQUEST BULLETIN No.3 May/June 1984

THE JURY BOX

by Dave Leadbetter

At the Coventry Inquest into the death of James Davey, the jurors were, in the media's words 'confused'; who or what confused them? We cannot agree with the *Guardian* that it was 'the evidence'. Still less can we accept the same paper's patronising conclusion that coroners' juries are 'ill equipped to handle the often very complicated evidence placed before them.'

Since the random selection procedures enjoined by the Coroners' Juries Act replaced (on January 1st) the coroner's officer's whim (or Old Pals Act) as the principle of recruitment, coroners' juries have been no better nor worse 'equipped' to handle the 4% of inquests entrusted to them, than any other jury. They are, after all, drawn equally from the ranks of the public. Does the *Guardian* want 'Diplock Courts' to conduct all inquests?

AND THE LEARNED CORONER ERRED

There is a sense, of course, in which this particular jury *was* spectacularly ill equipped. It suffered from direction so manifestly inadequate as to amount to a festival of bad coronership. The learned coroner contrived to confuse others besides the jury. In the little matter of what constitutes a 'rider' he even contrived to mislead the *Guardian*'s leader writer. (Unless, that, too, is the result of poor 'equipment').

Because the poor journalists became, in the closing stages of the hearing, at least as 'confused' as the poor jury, it is conceivable that our poor readers have gained a rather distorted view of what actually happened.

The sequence of events went somewhat as follows:-

Friday 30th March 1984

11am Coroner Kenderdine finishes his summing up. Mr Mansfield makes submissions concerning a) the jury's right to frame a verdict in its own words b) additional bases for a verdict of Unlawful Killing and c) Lack of care.

11.15am The jury retires.

2.50pm Jury returns and claims to have reached a majority verdict by 8 votes to 2.

The coroner sends the jury out to finalise the details, warning that if the minority grows beyond 2 then the jury will be 'hung' – and a new inquest necessitated.

By **3.25pm** the jury were back. Under the misapprehension that the verdict was intact, the coroner began to fill in the 'Inquisition'. The jury's answers are not without interest. They declared that the medical cause of Mr Davey's death was 'pressure on the neck leading to brain death' and that the fatal injury was sustained 'during the scuffle which took place in the corridor of the cell block at Littlepark Police Station on the 11th March 1983'.

CONTRADICTION IN TERMS

But Mr Dover, the jury foreman, had a surprise in store, when asked for the verdict he read out 'Accidental Death but we find that an unreasonable amount of force was used.' This he declared to be a unanimous verdict and, moreover, the only one the jury would agree to.

The foreman confirmed that the verdict was a compromise and that the former majority had disappeared. After telling the jury that the verdict was unacceptable, the coroner acceded to Mr Mansfield's 'happy thought' and bundled them out so that the experts could decide what to do.

Initially, the jury had been faced with a stark choice. Either it could find that the police had used reasonable force against Mr Davey: in which case the 'proper' verdict would be accidental death: *or* they could decide that the force was unreasonable and return a verdict of Unlawful Killing.

The coroner had taken the greatest possible care to exclude all other options. Having perhaps learnt something from the case of the escaping burglar (reported in Inquest Bulletin no. 2) he quite properly knocked out suicide. Curiously, misadventure was a non starter too. (He told the jury to forget the distinction between it and accidental death). An open verdict did not seem to him 'appropriate'. He was markedly unenthusiastic too about Mike Mansfield's suggestion of Lack of Care preferring a few ancient pages of Jervis to the High Court's historic ruling in the case of Richard Campbell and the great roll call of verdicts returning from it Jim Heather-Hayes, Matthew Paul, Ian Methven and (only the previous week) Richard Overton.

WHEN IS A RIDER NOT A RIDER?

Coroner Kenderdine disapproved of 'riders' too. They were not on: definitely disallowed, not only for the jury but it seems for him as well.

As far as his own position goes, the coroner was dead wrong but in respect of

CONFUSED? YOU WON'T BE . . .

Yes, this is the **third INQUEST Bulletin**. If you have received yours as part of **The Abolitionist**, you may be wondering what happened to number two.

It's quite simple really. The **Bulletin** is a bi-monthly publication. **The Abolitionist** appears three times a year. Alternate (odd-numbered) issues of the **Bulletin** will appear as part of **The Abolitionist**, as well as being printed separately for distribu to INQUEST members. The even-numbered **Bulletins** will be sent to INQUEST members only.

If you only get **The Abolitionist**, you not only missed the last **INQUEST Bulletin**, but also the 'Colour Supplement' which our members received with the first **Bulletin**, bringing the news it contained up to date. For all you know, there might be a supplement to this one, too. Tantalising, isn't it? And for just £2 a year (£5 if you're an organisation) you too could be a member of INQUEST!

On the other hand, if you've only got the **Bulletin**, you're missing all the other good things in the current issue of **The Abolitionist**. Not only RAP's analysis of the new Home Secretary's vicious penal policies, but PROP's **Prison Briefing** – including an account of the important inquest on Hull prisoner Richard Overton, and **Women In Prison**. Membership of RAP, the group which publishes **The Abolitionist**, costs £6 a year (unwaged £4). Write to: **Radical Alternatives to Prison, BCM Box 4842, London WC1N 3XX.**

INQUEST, 22-28 Underwood Road, London E1 5AW. Tel.: 01-247 4759

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jury riders only half wrong. It is true that a jury may no longer make one *on its own* but as eminent coroners such as Drs. Burton and Chambers have often told their juries, 'you have not been deprived of your right – make your recommendation to *me* and I will adopt it as my own and transmit it for you to the proper quarters'.

Thus the jurors, forbidden to frame the verdict in their own words and deprived of all other options, were in a box. They had simply no way of *saying what they meant*.

This, of course, presented the lawyers with a dillemma. If, as they had threatened, the jurors stuck to their perverse but honest finding, a contradiction in terms could not be accepted, the jury would be discharged, a new one empanelled and the whole inquest have to be restarted This is, of course, what should have happened.

Instead a grotesque scramble began to find some way of changing the jury's mind. Specifically, the object was to delete the reference to *unreasonable* force.

Anxious to be helpful, the coroner revived the idea of an open verdict which he had earlier killed off. This was squelched by Mr Mansfield on the very good grounds that this verdict means 'we are all agreed that we don't know' rather than 'we can't agree'.

So we arrived at the solution preferred by the massed ranks of the police counsel: why not declare the offending phrase to be a rider? The jury as reasonable people (straight off the Clapham Omnibus no doubt – would see at once that this was disallowed and simply drop it. In vain Mr Mansfield protested that the phrase was no such thing but (as all the gallery could see for themselves) *an integral part of the verdict.*

One wonders what new stratagem would have been employed had the jury reversed the order of their statement – if they had said unreasonable force *but* accidental death? Would that have been treated as a rider?

It was not to be. Sent out again the jury surrendered at 6pm. Yes, they agreed to see the Emperor's clothes, too. Yet there was one telling phrase unreported by the media. It went: *'As the law now stands* we have no option but to find accidental death'.

Not so, jury. You should have said 'as we have been *told* the law stands'. Going home one saw a van load of policeman who appeared to be gloating. They were wrong to do so. 'Unreasonable force' was said. Who can un-say it?

PER INCURIAM
(or Kenderdine's Last Case)

Down at the Crown Court something stirred,
A proper inquest? How absurd!
You mean to say you haven't heard
Of how the learned coroner erred,
And erred and erred –
And ummed – and erred –
With pauses long 'twixt word and word?

Perplexed, the jury half-concurred
With EVERYTHING counsel averred
And even at one time preferred,
Despite that antiquated nurd
(Her Majesty's Coroner, he who erred),
To say the truth of what it heard –
And apoplexy near occurred.

Reneging on its half-brave word
Jury to establishment deferred;
Killers with satisfaction purred,
No penalties by them incurred –
And all because a coroner erred:
Yet still the gallery demurred
In that theatre of the absurd.

Upon a prisoner sore abused
'UNREASONABLE' force was used;
A pressed neck left James Davey dead –
That's what the jury Foreman said.
Pray tell me, Sir, a deed so awful,
Just how can it be reckoned lawful?

ASHFORD: THE CHIEF INSPECTOR'S VERDICT

by Tony Ward.

In 'Not a Happy Place', *Abolitionist* no. 13, p. 4, I described the events that led to to the verdict of 'lack of care' on Jim Heather-Hayes, who hanged himself in Ashford Remand Centre in July 1982. A crucial factor at the inquest was the fact that the family's solicitor was able to quote to the Governor and Medical Officer the provisions for suicide prevention contained in the Prison Department's unpublished Standing Orders (SO's). Home Office Minister Lord Elton claimed that the jury's verdict 'stemmed from a series of misunderstandings' of the relevant SO's. As a result of the verdict, however, the then Home Secretary (now Viscount Whitelaw) asked H.M. Chief Inspector of Prisons to pay particular attention to suicide precautions when he visited Ashford, and also to prepare a report on suicide prevention in prisons generally.

The general report on suicide prevention has been repeatedly delayed and is not now expected 'for several months', but the report on Ashford has recently been published. It makes no comment on Jim Heather-Hayes' death except that the distress which followed it was a measure of the staff's concern to prevent suicides. But it concludes that in general, 'the procedures in use at the establishment differed significantly from the requirements laid down in Standing Orders and Circular Instructions' and left 'room for potential suicides to slip through the safety net that the present instructions are intended to provide.' The Chief Inspector's findings, in his own words, include the following:-

- We did not consider that reception staff took sufficient note of the previous history of an inmate which could indicate suicidal tendencies. One reason for this was the delay in the arrival of the establishment of the reports from the courts which contained the relevant information. . . However, even when the information was available. . we do not consider that it was picked out, acted upon and presented to the Medical Officer in any systematic way. **Staff took the view that if the CI's** [Circular Instructions] **were strictly interpreted most, if not all, the inmates would have to have been designated potential suicides. . . reception staff, faced with the sheer weight of numbers, tended to disregard the instructions.** [Our emphasis.]
- The Medical Officer's examination of a newly-received inmate almost always took place the day after examination. . . inmates would be held overnight in the general Remand Centre accommodation. . . this was undesirable for general health reasons [and] took too little account of the need to keep all inmates (whether or not formally identified as potentially suicidal) under reasonably close observation in the interval between reception and medical examination.
- [The] F marking system was not operating effectively. . . any inmate whose suicidal tendencies are clearly established should have his record marked with a red F. . . [Staff] were under the mistaken impression that Standing Orders permitted a discretion in the use of F stamp. Thus, we saw records on which an F mark was clearly required, but had not been made. . . [This] omission can have very serious consequences.

The Report refers to 'procedural weaknesses' in the system for reporting signs of depression, anxiety, etc., which might indicate suicidal tendencies, and notes that these were particularly defective where an inmate was moved between wings, e.g. on returning from court after sentence as Jim Heather-Hayes had done on the day before his death. The Report does not, however, deal specifically with the failures of communication that appear to have occurred in Jim's case, in not placing information about his mental state before the Governor before Jim was 'awarded' a period in solitary, and in not passing on the indications of a suicidal frame of mind that the censor might have been expected to notice in his letters.

THE DOCTORS

At the inquest, Ashford's Medical Officer was cross-examined about SO 13/101, which lists a number of 'factors of importance' to be taken into account -- but not automatically acted upon -- in assessing suicide risks, several of which clearly applied to

were not satisfied. . . that medical staff gave due weight in their decisions to the factors identified in SO 13/101. It was pointed out to us that Ashford was in an unusual and difficult position when it came to applying this Standing Order. There was, for instance, a rapid turnover of the population; and a substantial number of the inmates, particularly those on remand for reports, had exhibited disturbed behaviour or had acted aggressively or had records of alcohol or drug abuse. It was suggested to us that it would be impractical to base the need for suicide precautions on these criteria.

The Inspectors admit to 'some sympathy with the medical staff on this point' but conclude:

> We consider, however, that Ashford's medical staff should still take the presence of such factors into account when deciding how to treat individual inmates.

THE GOVERNOR

At the inquest, the same excuse that the reception and medical staff made to the Inspectorate was offered by the Governor: that the criteria laid down in Standing Orders would apply to 'the majority' of Ashford's inmates. The Inspectorate concludes that the weaknesses in Ashford's suicide precautions 'stemmed from a need for a firmer lead from local management' – by which it appears to mean primarily the Governor. He, the Report says, 'must make sure that sufficient guidance is available to staff'. 'Prison Department's central instructions were not readily available for staff to refer to', nor had 'management' considered how these instructions 'should be applied to local circumstances' or given staff any 'guidance on where particular responsibilities lie.' The Report calls on management to 'give a clear lead by following central instructions and by holding staff accountable in their turn': the implication seems clear that management has been lax in both respects.

Finally, the Report notes that 'no priority had been given to the prevention of suicides in the local training programme. . . the importance of this matter is such that the Governor should review his training plans at the first opportunity.'

The Inspectorate is not given to emotive language; as such reports go, this one can be rated as strongly critical. At the very least, it makes clear that the verdict on Jim Heather-Hayes, far from being a 'misunderstanding' drew attention to a 'proper cause for concern' – which, among other things, is what inquests are for.

Until December last year, that verdict was a unique one so far as deaths in custody were concerned, but it has now been joined by three more: the verdicts of suicide due to lack of care' on Matthew Paul (see Supplement to Bulletin no. 1), of 'natural causes aggravated by lack of care' on Ian Methven (see Bulletin no. 2) and on Richard Overton (see current issue of *Prison Briefing*). We are entitled to ask what is being done to investigate or to remedy the 'proper causes for concern' which those verdicts point to: In Matthew Paul's case, the conditions for prisoners at Leman Street Police Station (and others in the Met.), and in the Methven and Overton cases, the standard of medical services at Wandsworth and Hull respectively and, INQUEST would add, of the prison medical service in general.

Sheila Heather-Hayes writes:

Having read H.M. Inspector of Prison's Report on Ashford Remand Centre, twenty months after the death of my son, Jim Heather-Hayes, I can only state that I am not surprised at the inadequacies revealed by the inspection, these were related to me very clearly by my late son when I visited him from March to July 1982. I am very pleased that these deficiencies have now been made public.

In particular I note that punishment cells (where my son spent fourteen days in April 1982) are now subject to certification by the Regional Director as to adequate lighting, heating, ventilation and space. Also, minor infringements of discipline are now dealt with by the Governor and not wing Officers - loss of privileges in the form of no association and/or no video films, were frequently experienced by my son. Changes of clothing have now been recommended twice a week, instead of once. These matters which reflect the quality of life at Ashford must surely contribute to the section in the report on suicide precautions where attention is drawn particularly to those inmates with a history of:

- Outbursts of aggressive behaviour and/or impulsive or hysterical temperament.
- Mental disturbance.
- Previous suicide attempts.
- Drug abuse or alcoholism.
- No previous experience of custody.

Jim Heather-Hayes qualified under three of these headings. He was put in punishment for 14 days for allegedly inciting a riot in the canteen: the Medical Officer had thought fit to advise Richmond Court on 15th March that Jim had a history of drug taking and stated 'he had no doubt that James Heather-Hayes has suffered on occasions from toxic psychosis': he had no previous experience of custody.

In spite of these facts, no precautions were taken and Jim spent a large amount of time at Ashford alone in a cell. On the day of his death, Jim refused both breakfast and dinner but again, no action was taken.

Perhaps the most frightening aspect of this report is the lack of information available on the backgrounds of inmates to both administrative staff and the prison officers. It is noted that the recommendations of the report on suicide precautions have been implemented at Ashford. Let us hope that the first suicide at Ashford for nine years will prove to be the last and that the Prison Inspector's report of suicide precautions in the Service, which is being written now to be published later in the year, will extend and improve these precautions throughout all prisons in the country.

NCCL PRISONERS' RIGHTS CONFERENCE: 5 MAY 1984

Conway Hall, Red Lion Square,
London WC1

In the past year there have been significant legal and political changes which affect the lives of prisoners and those who govern us. NCCL is holding a Prisoners' Rights Conference on 5 May 1984 to bring together those from a wide political spectrum who are involved in penal affairs to debate these changes in penal policy and practice. Recent developments include:

Parole: Home Secretary Leon Brittan announced restrictions on the availability of parole at the Conservative Party Conference last October. Now, whole categories of offenders have been told that they have no chance of parole except in undefined 'exceptional circumstances'. This new policy has been widely criticised.

Access to lawyers: a recent test case established that prisoners have the right to seek legal advice regarding any matter without raising the complaint internally – a restriction which has helped to perpetuate the closed and secret character of prison life.

Legal representation at disciplinary hearings: a further test case established that Boards of Visitors may grant prisoners legal representation at disciplinary hearings before them.

The conference will look back at recent developments in both Britain and the European Courts and forward with proposals for future action.

For further information please contact Lucy Jeffries 01-403 3888.

THE POLICE BILL in Committee

By the time this Bulletin appears the Police and Criminal Evidence Bill will have completed its Committee stage. In this stage the Bill was debated, clause by clause by a Standing Committee of 12 Conservative MPs (including the Home Secretary who never actually turned up), six Labour and one Liberal. INQUEST briefed members of the Committee on three clauses of the Bill, and in one case drafted an amendment. We didn't succeed in changing anything, but did help to generate some interesting debates on deaths in custody.

USE OF FORCE

The first of these debates concerned clause 2(8), which allows the police to use 'reasonable force if necessary' in searching a person or vehicle. This apparently simple provision has complex and disturbing legal ramifications. At present the police have the same right to use force as is conferred on every citizen by the Criminal Law Act 1967, s.3:

> A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting the arrest of offenders or suspected offenders or of persons unlawfully at large.

There is very little authority on the interpretation of this section, but it seems clear that the police may forcibly search a person provided that the force used is reasonably necessary for the prevention of crime. Thus a certain degree of force might be reasonable in searching for a loaded gun, but unreasonable if the object of the search were a stolen sandwich. Indeed it could be argued that the preventive value of finding the sandwich would be so small (it might deter the suspect from stealing sandwiches in future) that to use any significant amount of force would be unlawful. Under the Bill, on the other hand, it appears that provided the search in itself is lawful, as much force as necessary may be used to carry it out, no matter how trivial the ultimate objective. It also appears that force could be used even though the person to be searched was not resisting, which would be difficult if not impossible to justify under the existing law. As we pointed out in our Annual Report: 'it might seem fanciful to suggest that such use of force could lead to death, but "reasonable force" can easily escalate into a "struggle" and Winston Rose, Nicholas Ofusu and James Davey were all apparently killed while being "restrained" during a "struggle".'

The opposition tabled an amendment which would have made the use of force by any person in any circumstances subject to similar, though much more detailed, criteria to those in the Criminal Law Act. INQUEST supported the amendment with a briefing on 'Deaths Connected with the Use of Force by Police'. Robert Kilroy-Silk MP referred to it as 'the amazing briefing from INQUEST. . . I had forgotten the number of occasions where our police officers, in the last decade or so, have been involved in shootings and killings in public places. . . When they are heard altogether they add up to a formidable and surprising list.' (*Official Report* 6 Dec. 1983 col. 225).

The junior Home Office minister, David Mellor, denied that clause 2(8) changes the existing law:

> Section 3 of the Criminal Law Act is not intended to encompass all the circumstances in which it is lawful to use reasonable force. It merely delineates some. It remains that it is impossible to imagine any power of search of a person being given without, implicitly, the right to use force to carry it out. But we thought it right on balance to put that on the face of the Bill so that there should be no misunderstanding. . . If the hon. Gentleman is asking whether there is any extension in the use of force in the context of a search, the answer must be 'No'. The law remains as it is. (Col. 231).

It is by no means clear that the existing statutory and common-law powers of the police create any implied power to use force going beyond the express power conferred by the Criminal Law Act; and if the Government's intention is really to 'avoid misunderstanding' it could well backfire. As Louise Christian points out in *Policing by Coercion* (GLC, 1983):

> The danger of such specific provisions would be that the courts may feel bound to interpret them less restrictively than the existing law. . . Because of the rules of judicial interpretation, the provisions in the Bill allowing the use of force in specific instances by police officers would be interpreted to extend and add to the existing law.

The opposition amendment, which would for the first time have given some guidance on how to determine what degree of force is 'reasonable', was defeated.

VENDETTA?

A matter of particular concern to INQUEST is that the Bill would allow people to be detained on what amount to medical grounds without any requirement that they be medically examined. We therefore supported two amendments which would have required medical examinations: the first where people were detained because they were not 'fit to be charged'; and the second (which we drafted) where a person's medical condition was such that they were thought to be in need of custody for their 'own protection'. Gerry Bermingham (Labour) pointed out that a number of deaths in custody which had 'caused grave concern . . . could have been avoided if the emphasis had been shifted — as this amendment seeks — to err on the side of caution'. This modest suggestion drew the following comments from Eldon Griffiths, the Tory MP who speaks for the Police Federation.

> During the past two or three years many police officers and I have been deeply disturbed by the near-vendetta that has been waged in the press and on television over deaths in police custody. It is true that many scores — indeed over a period of time the figure has been more than 100 — of people die in police custody.
>
> But when it is stated that 112 have died in cells, the implication is that they have all been brutally beaten up by the police. There was a press vendetta for a long time. It homed in on the Kelly case and others in the north-east. The scar tissue of that vendetta, which was waged irresponsibly, remains in the service.
> (7 Feb 1984, col 1106 v 1)

Mr Griffiths returned to this theme in the debate on intimate body searches (col 3039) but this time the culprit was identified as 'one Opposition Member of Parliament' — obviously Mr Michael Meacher, who before his recent appointment to the front bench chaired the INQUEST Parliamentary Group.

It is difficult to know where Mr Griffiths gets his figures from. From 1970-82 (the first and last years for which figures are available) there were, in fact, 441 'deaths in police custody or otherwise with the police,' in England and Wales, of which 195 occurred in police stations. It is equally difficult to know why he should draw from the figures — which incidentally would not have been published but for Mr Meacher's so-called vendetta — such a patently extravagant 'implication'. The whole point of the amendment, after all, was that many people have died in custody not because they were brutally beaten up but because the police failed to realise that they were ill or injured.

The gist of Mr Griffiths' argument was that the amendment was unnecessary as the police had been so scarred by the 'vendetta' that they would 'send for a doctor in every case. They will not take any risks.' We wish we could believe that our efforts had had such a salutory effect; but our experience indicates that police officers deal with semi-conscious, apparently drunken prisoners as a matter of routine and unless something is obviously wrong it may never occur to them to doubt that the prisoner is, in fact, simply drunk. That is why the proposed Code of Practice which, like present police regulations, requires a doctor to be called to an 'incoherent or somnolent' prisoner *if the police are in any doubt* as to the cause, is inadequate — quite apart from the fact that it is completely unenforceable.

INTIMATE SEARCHES

The version of the Police Bill which fell because of the general election allowed the police or a doctor to search a prisoner's mouth, vagina or anus for evidence of a 'serious arrestable offence' or for any article that could be used to injure the prisoner or others. As a concession to the medical lobby, the power to search for evidence was dropped from the present Bill, but the power to search for dangerous articles was retained. However, the Bill provides that if the police search for a weapon and find evidence instead, the evidence can be used. And it will be almost impossible to prove that the reason the police give for an intimate search was not the true reason.
(Mr Martin might not, of course, have been so determined had he not correctly anticipated that he would be dealt with in such a way that he would have little to live for.)
What angers us about this clause is the Government's hypocrisy in using the risk of suicide to justify a power which could lead to serious injury while averting a minute number of deaths, and at the same time increasing police power of arrest and detention in a way that will almost certainly lead to many more suicides in custody. We were not much impressed, therefore, by the following rather sanctimonious intervention from Mr John Wheeler:

> Under our system of policing, the police have as their first duty the preservation of life, and always their first obligation is to preserve the life of the citizen. How does the hon. Gentleman [Mr Bermingham] reconcile that absolute duty with the restrictive practice of calling a doctor to make the examination?
> (23 Feb 1984, col. 3035)

To which Mr Bermingham had a simple answer: if the police have reason to believe that a prisoner may attempt suicide they can, and often do, have an officer sit with the prisoner at all times to prevent it.

The Government's case for the power seemed to rest almost entirely on the incident of the penknife in David Martin's mouth. In this respect a passage from INQUEST's briefing proved sadly prophetic:

> Police officers and coroners often argue that a person who is determined to commit suicide will find a way of doing so sooner or later. There may well be some truth in this. The sort of suicide which causes us far greater concern is the act committed on impulse in the lonely and stressful circumstances of custody.

When Mr Alf Dubs, drawing on INQUEST's briefing, pointed out that the Home Affairs Committee's report (1980) on Deaths in Police Custody gives no indication that the power under discussion would be useful in preventing suicide, Eldon Griffiths claimed: 'That is because at present, the police search and remove implements, so the problem does not arise' (col. 3044). This is interesting since, as Louise Christian states, (*op. cit.*, p. 90):

> the power to search intimate body parts (vaginas and anuses) would probably be new. It is doubtful whether 'search' would be interpreted by a court to include probes into internal body parts, although the point has never been tested.

In any case, where, asked Mr Dubs, was the evidence? Much later in the day, and probably after some hurried research by his advisers, the Minister of State, Mr Hurd, triumphantly produced it:

> Let us take the case of the woman with a background of suicide attempts who was arrested on three separate occasions in 1981 for drunkenness offences and each time a search revealed razor blades hidden in her vagina. I have four of five similar cases.
> (col. 1372)

The answer to the Minister's point is, of course, the same as that to Mr Wheeler's: the police could surely have prevented this unfortunate woman from harming herself without adding to her distress by a forcible search. The first duty of the police is, indeed, to preserve life; but humane objectives become perverted when they are used to justify inhumanity. That is one lesson that can be drawn from these debates.

For copies of our Briefings on the Police Bill (Use of Force by Police; Detention; Intimate Body Searches) please write to the office **enclosing a stamped addressed envelope** *(the Briefings are A4 size).*

STREAMLINING THE CORONERS?

> The GLC and MCCs [Metropolitan County Councils] are responsible for appointing and paying coroners for their areas, and in some cases provide and maintain purpose-built coroners' courts. Pending changes in the longer term in the coroners' system, as envisaged by the Brodrick Committee, the Government propose that the present functions of the GLC and MCCs in relation to coroners should be exercised by a single district or borough council within the coroner's jurisdiction, with costs to be shared with the other authorities involved. The Government may wish to make statutory provisions in relation to the approval of the appointment of coroners by the Secretary of State.

That paragraph from the white paper *Streamlining the Cities* (Cmnd 9063, Annex A, para. 5) is all that the Government has said publicly about the effect of the abolition of the GLC and MCCs on coroners. The proposals are expanded upon somewhat in an unpublished Home Office Consultation Paper, but several areas of ambiguity remain. The White Paper itself makes four key points which are worthy of comment.

1. Changes in the longer term

The White Paper refers to the report of the Brodrick Committee, published in 1971. This is somewhat ironic in view of Brodrick's statement that 'We do not think that it would be in the interest of the coroners' system for it to undergo, as a whole, a series of transitional changes in step with changes in local government'.

Brodrick's main recommendations in relation to the appointment of coroners were that they should be appointed by the Lord Chancellor after consultation with the local authorities; that the Lord Chancellor should have the power to remove coroners for incapacity or misconduct after an investigation by the Home Secretary; and that coroners should be barristers or solicitors of at least five years' standing.

It would be very interesting to know whether the Government has it in mind to implement any other of Brodrick's recommendations. During the debate on the Coroners' Juries Bill (which, with INQUEST's backing and the Government's blessing, gave effect to Brodrick's recommendation on jury selection', the Home Office Minister, Mr Mellor, said that the Government had 'by no means finished our consideration of the Brodrick Report'.

Although the implementation of many of Brodrick's recommendations — e.g. the introduction of legal aid at inquests — would be very welcome, full implementation of the report would gravely weaken the coroners' courts, leaving them much like the Northern Irish courts discussed elsewhere in this Bulletin but without even the requirement to summon a jury in certain cases. The Criminal Law Act 1977 followed Brodrick by abolishing the power of the coroner's jury to charge people with murder or manslaughter, along with the requirement to summon a jury in cases of road accidents and suspected homicide, but stopped well short of the Committee's more sweeping proposals.

2. A single district or borough council

There are a number of ambiguities about the 'consultation' which the Home Office proposes should take place between the appointing council (which would be chosen by the Home Secretary) and the other councils in the coroner's jurisdiction. A joint selection board made up of representatives of all the councils is

proposed but it is not clear whether this would make the final decision or merely draw up the shortlist which would have to be submitted to the Home Secretary, nor whether its decisions would be binding on the appointing council. The Home Office Paper does not propose any consultation procedure for decisions about buildings and staff, although a decision, for example, to build a new coroner's court would involve all the councils concerned in substantial expenditure. This is curiously inconsistent with the Government's proposals on magistrates' court buildings, which would require ill-defined 'discussions' among the councils, with a right of appeal to the Home Secretary.

3. Costs shared with the other authorities

The Home Office suggests two ways of allocating responsibility for buildings and staff:

a) responsibility could pass to the council for the borough or district where the premises are located or the staff are employed;
b) responsibility for all premises and staff in the coroner's district could pass to the council which appoints the coroner.

The district or borough which appointed the coroner would probably be the one where the principal coroner's court was situated, and if option (b) were adopted it might tend to neglect the smaller courts (of which there are several in London) in other boroughs, and the need for staff in other boroughs or districts. On the other hand, option (a) would, as the GLC points out, 'clearly be an administrative and accounting nightmare'. Whichever option was adopted, costs would be shared by the boroughs or districts on a population basis and, as the GLC report says:

> The complexity of the administrative arrangements that will be necessary to ensure that costs in practice are correctly shared speak for themselves. . . The contrast with the present arrangements where the Council is responsible for all matters of accommodation throughout London (except the City and Temples) and therefore able to adopt a consistency of approach, rely on economies of scale and avoid fragmentation of resources, could not be more stark.'

Remember, these elaborate and costly arrangements are intended to be *purely temporary*. And all in the interests of 'streamlining the cities' and reducing bureaucracy!

4. Approval by the Secretary of State

The Government's most objectionable proposal has no apparent connection either with the abolition of the GLC and MCCs or with implementing the Brodrick Report. That is its intention, confirmed as definite by the Consultation Paper, to make future appointments of coroners subject to the approval of the Home Secretary.

As the Home Office paper says, 'the coroner is an independent judicial officer'. It is unprecedented for the Home Secretary to be given a role in the appointment of members of the judiciary.

Deaths in prisons and police stations, or as a result of police action, are of an especially sensitive character, and this is recognised in the statutory requirement for the coroner to summon a jury in such cases. Justice would not, to say the least, 'be seen to be done' if these inquests were conducted by coroners whose appointment had been vetted by the ministry responsible for the institutions concerned.

INQUEST'S PROPOSALS

Coroners have been appointed by county councils since 1888. Until then, they were elected. The distinguished Coroner for West Middlesex, Thomas Wakley (elected in 1839), declared that 'the coroner was the *people's* judge, the only judge whom the *people* had the power to appoint. We think it is important that coroners should continue to be appointed locally, in a democratic manner, and without interference from those whom Wakley called 'certain persons who had been, and wished to continue to be, free from observation and control'.

In our response to the Home Office paper, we have argued that decisions about the appointment of coroners, and major decisions about accommodation and staffing, should (assuming that the GLC and metropolitan councils are abolished) be taken by a joint panel or committee of all the councils concerned. Such decisions would only need to be taken occasionally, but a local 'inquest committee' – covering either a whole county or a particular coroner's district – could play a much wider role.

The Consultative Paper (para 3) compares the appointment of coroners with that of chief constables. That is a most inappropriate analogy so far as the powers of the Home Secretary are concerned, but it is instructive in other respects, as the Brodrick Report shows:

> 'The coroner, like the chief officer of police, is solely responsible under the law for the selection and execution of his operations, but, unlike the chief officer of police, he does not conduct his operations in association with a national system for training, inspection, support or public complaint. *Nor has he the same degree of accountability* for his actions. (Para 20.24, emphasis added)

We propose that the authorities responsible for appointing coroners should have a statutory duty to ensure that they are properly trained. Training could be administered on a national basis by a joint board of the authorities concerned, in co-operation with the legal and medical professions, but should also include an element designed to promote awareness of local issues such as the conditions and practices in major local industries. A local body could also deal with complaints. The judicial independence of the coroner might appear to be compromised if local authorities had the power of dismissal, but they could investigate serious complaints before referring them either to the Lord Chancellor (who at present has the power to dismiss) or, preferably, to a special tribunal on the lines proposed in the report by JUSTICE on *The Judiciary* (1972). Grounds for dismissal should include misconduct, negligence or incompetence in the performance of the coroner's duties. The local committee should appoint, and be able to dismiss, coroners' officers, who should be civilians rather than seconded police officers as at present.

Perhaps the most valuable function which an 'inquest committee' could perform would be to follow up the issues which emerge from inquests. Although a coroner who believes that an inquest shows the need for action can report the matter to an appropriate person or body, there is no way of knowing whether such recommendations are acted upon – until someone else dies in the same way. If the coroner were to report to an 'inquest committee' on inquests which raised matters of public interest, the committee could liaise with other local authority committees, and with other bodies, to try and ensure that appropriate action was taken. If our wider proposals for reform were adopted, the committee would als also have the power to convene a further public inquiry into issues raised by an inquest.

INQUEST's response to the Home Office Consultation paper is available from our London office. The GLC Report, Streamlining the Cities and Judicial Services (LG 365) *is available free from the Information Centre, Room 82, The County Hall, London SE1 7PB*

Report from Scotland: Barlinnie

When an accused person is remanded to Barlinnie prison:

1. a Scottish equivalent of the '618' form ensures that police warning of 'suicidal tendencies' are passed to the prison authorities.
2. By contrast to some English prisons some notice appears to be taken of this – as will be seen, it might be better if none was!
3. The prison is put in a cell by himself in what are called the 'suicide flats'.
4. 'Potentially suicidal' prisoners are not generally allowed to have radios – for fear apparently that these might be used for self-destruction.
5. My informant says that the frequency of checks on inmates fluctuates according to the staff rota; about once a week the very existence of these prisoners seems to be forgotten and they have to ring alarm bells in order to obtain the regular meal.
6. Unsurprisingly, says my informant, the incidence of self-mutilation is quite high.
7. His general conclusion is that 'if one isn't suicidal when one goes in such a cell one pretty soon gets that way.' Isolation does seem the very last thing that would deter a person contemplating suicide.

The above report was submitted to INQUEST's Executive Committee monthly meeting on Saturday 14th February 1984. On the following Monday a Barlinnie Remand Prisoner, Mr Hugh Morrow was found hanging in his cell.

IN CONVERSATION

Jill Box-Grainger in conversation with Cecil Ross, MBE, JP

Could you tell me for how long you have been a JP, and how long you have been on the Board of Visitors at Ashford Remand Centre?

I've been a JP for about eight years and I've been at Ashford since 1978. Officially I've just left Ashford, from the end of December '83, because of the travelling time. I've found it very difficult to get to meetings. The Home Office felt that because I'm so involved in other things perhaps it was best that I don't continue at Ashford. I have written to the Home Secretary saying, 'Yes, I understand that'. What I find very strange though is that they didn't say to me 'As Ashford is too far for you why not be a Visitor at a prison which is nearer?' So I've written to the Home Secretary saying I'm still prepared to serve in any way I can, either as a Prison Visitor or as a member of any of the local Boards of Visitors. I've been at Ashford six years and I've gained quite a lot of experience during this time. Why should it be lost to the prison service at a time when we want ethnics to join the prison service? So I'm not prepared to just bow easily at that. On the other hand the Home Office has used me and is still using me at regional and local prison seminars. So I wouldn't say it is anything personal but I just think other alternatives ought to be explored for this.

Could you give me your working definition of racism, both in general and also specific examples of how you see racism working within the criminal justice system? I know that's a huge question.

It is a very big question and we don't have time to cover all of that right now. I think one of the most important things for me, which I would like to discuss, is not so much racism as a very *carte blanche* term but institutional racism – which I think is the most harmful aspect of this society in relation to black or any other ethnics in the community. Personal racism might not matter much to me. I mean I can take it and shrug it off. But if within the criminal justice system that racism becomes part of the assessment, then it will have an effect. It is extremely difficult, very, very difficult – and I have spoken to judges, barristers, solicitors and a lot of magistrates – to actually say that a particular magistrate has made a racist statement in relation to the court decision. But overall I believe that in some of the decisions we come to a lack of knowledge about what goes on in the community and how blacks feel *does* make a difference in arriving at certain decisions.

I'll give you an example. I was sitting on a juvenile Bench and there was a young lad charged with allegedly having stolen a pair of plimsolls. And as I listened to the case unfolding the first thing I noticed was that each police officer who came to give evidence gave a different description of the way the guy carried this particular item under his coat, behind his back, etc (the officers were of sergeant level). And at the end of the case, when we had adjourned to adjudicate, one of the magistrates said to me that she was sure that the father, who had given evidence on behalf of the lad (saying he'd given the lad the money to buy the plimsolls), was lying – because black men do not give their children money and do not support their children! I took umbrage at this. And I said that I didn't know why she thought that black men don't give their children money, etc, and that even if this were the case there are a lot of white men who wouldn't give their children money. But I also said that what I *did* know was that this particular man, from the way he spoke and the things he said, *did* give the boy the money. We had a long discussion about that and I felt so strongly about it. My other colleague went with me and we found the case not proven. In this instance, when the case was finished and the verdict given, the police sergeant mumbled under his breath that he was not too worried about the outcome since they were just trying it on. The Clerk of the Court overheard this and came into the room where the bench had retired and reported this to the Chairwoman. The Chairwoman was very angry about it. But here was a lad brought before the criminal justice system for allegedly stealing something, which in fact he bought and and when, in f act, at the time of his arrest the police had made no attempt to check he had been telling the truth. And here was a magistrate saying that black men don't support their children. I felt that this was bias and I think it was also racist, since it showed a particular derogatory attitude against black people.

I also look at some of the Home Office reports that have been done. I wonder why black people suffer disproportionately in terms of the way they are processed in terms of being given, say, community service, a suspended sentence as opposed to custody. And I came across things which I can only call very, very racist practices. We [Tooting Youth Project] have represented lads who have no previous, are accused of stealing something and are given one month's imprisonment. Now by the time you begin to process that person he's already served some time . . . That kind of sentence is the worst kind because the damage has already been done and because they've already served about three weeks inside before they are 'processed'. I think these are instances where there is no doubt that the criminal justice system operates against ethnics or blacks. Solicitors are the worst culprits. If you take the criminal justice system to include the police, representation, the justices, etc, I would say at this moment in time that the worst culprits I come across are solicitors. Because they don't care a damn about how they represent the young people. They might need the legal aid fees but I don't think they give sufficient representation. They make a lot of money off black kids.

I was a probation officer for a short while and I believe that some probation officers in some ways must act against the interests of their clients – even if they claim to be 'professional' in their manner. I think there is sometimes collusion between probation officers and the police. I think it's unhealthy. I know they have to work together but I think the collusion goes further than that. A very good report to look at is by a man called Charles Younghusband who has done a report about the Birmingham Probation Service. He claimed that in that particular area the people there were not notoriously prejudiced or racist and yet at the end of the day the manner in which they processed black youngsters as opposed to white youngsters was surprisingly different. Yes, the criminal justice system works against blacks. It's subtle, very very subtle.

Let's look at it another way. Don't let's look at those who are being punished for some infringement of the criminal code. Black *barristers* find it extremely difficult to get into

chambers where they can get the right kind of pupillage. Black barristers are therefore forced to open their own chambers with not much experience. If they 'perform' badly then it's said that they are incompetent. They don't get the breaks – that's another part of how the criminal justice system works.

Do you think it is still necessary for the case for the existence of institutional racism in the criminal justice system to be 'proved' by 'statistical and empirical' research?

I think that if you look at the whole race industry and all the black people who have been studied, analysed, processed and re-assessed – and the many whites who have got doctorates and masters degrees from writing about blacks – and all the various white papers and green papers that have been produced I would say you've got sufficient information with which to deal with the inconvenience, in terms of the pressure, that young and older blacks have to put up with. Yes, I would say that case has been made. However, I believe that there could be a lot of positive use for some research, that is if it points the way for how institutionalised racism can be dealt with.

Do you think that there is any distinction made by the criminal justice system in the way that it treats black women, compared with black men?

I think that given the chauvinist attitude of some of the white men they don't perhaps see women as a threat and because they might be moved a bit by the fact that she may have a child or children they might in some ways temper the extent of the sentence. But I think that on the whole they see black women and men as alike. Yet you must remember that this society is never threatened, or is never seen to be threatened, by the black woman. It is the black male who is seen to threaten. For example, nobody talks about black women going with white men, but when a black man goes with a white woman it seems more threatening. So think that principally in this society black men have always posed a bigger threat. I feel that the criminal justice system does deal with black men much harsher than it deals with black women – but on the whole we're black, and it sees us as black. An example of that is the way I hear of some black girls who have committed crimes and who have been dealt with by being sent to Holloway, etc and yet you don't hear about the white girls who have committed crimes unless they have been extraordinarily bad. Also, you are being judged because you are black and blackness carries certain connotations for them. Therefore they make a whole range of assumptions when you go before them.

I remember giving a character reference for a particular lad at Croydon Crown Court. When I got into the box the prosecuting counsel said to me: 'You're a very popular man', and I said I didn't know about that; 'You're a very famous man' and I said that, no, I wasn't a famous man; 'You are a well known man', and I said that I didn't know about that but I knew a lot of people; 'Would it be fair to say that you have given a lot of people references?', and I said yes that was the case since I worked in a community. And then he said, 'Would it be fair to say that you are almost like "rent-a-reference"?' At this I immediately stopped and asked the Judge for an immediate apology – that I had come into the box with my character unimpeached and I intended to leave it that way. I got that apology. But I'm glad he did apologise because otherwise it would have gone against me in the minds of the jury. I've been in court for many years and I have *never* heard a character reference being attacked in that particular way – especially whites.

As a magistrate when I go to court there are many times that court officers are very rude to me on the basis that I am black. Not until later, when they realise I'm a magistrate, do they apologise. But I object to it. Regardless of the fact that I am a magistrate there is a particular approach that should be practised towards members of the public. And that's how I make my case to court officials. I say, forget that I'm a magistrate. I'm a member of the public and if you approach me you should do so in a particular way to ascertain what I am doing there and what right I have to be there, *before* you get tough with me. In their minds, in their tiny minds, they don't see that a black person could be a magistrate. I don't have a chip on my shoulder. I have experience based on things I have seen and the experiences that other people have shared with me.

When you talked to the LCCJ[1] meeting you said some interesting things about the kind of ways you try to confront racism, as a member of the Board of Visitors and at Ashford. Could you talk about how you see your role as a public representative in these instances?

They assume that because you are black you must only be interested in black prisoners. Yet I'm there to represent the interests of all prisoners and therefore some of them get their minds blown like that. Some of them don't believe that a black person could come into the prison and have an assessment about what is going on. I have a fair approach and I'm always seen as a freak. Sometimes the prison officers are the most reactionary. They say they don't see colour and treat everyone alike. But it is impossible *not* to see colour. I think some people in the prison service don't want to rock the boat. For example, at adjudications when you raise questions about the quality of evidence given by some of the prison officers and sometimes their lack of back-up evidence, prison officers get very angry and they perform almost in dumb insolence. That is a part of their belief that if they bring a person before you that person should be found guilty, whether that person is white or black. I don't see it that way. But what I *do* see and what I've learnt is that if the system works in a very harsh manner against white working class youngsters it doesn't take much for them to find a different justification for working against black youngsters. So in some ways a black youngster could suffer exactly what a white youngster suffers but have the additional burden that it means something because he is black. I look for the injustices in the white system and show how they cross the black system. If a society is inhumane to 'its own kind', if it moves in a very harsh and unrelenting manner against its 'own kind', then any 'other kind' will be surprised if it acts in a loving manner towards them. Therefore in many ways fighting racism is not only fighting for blacks but fighting to liberate whites from that same kind of pressure and also fighting to liberate the minds of some white people. It has to be . . .

I don't want to take away from the fact that in the prison service, too, there are men and women who are trying to do their best; but they are in the minority against a majority which is very, very powerful. I'll give you an example. I took a prison seminar a couple of days ago and there were three or four prison officers there who were very aggressive towards me. Not that I was worried but they were very aggressive towards me. One of the women walked out and as she did so she said, this is her words, 'I don't like to see an educated man, and especially if he is black, being insulted by people like you'. And when she had left one of the other prison officers said to me, 'forget that mafia group up in that corner'. You could see that he was totally opposed to the manner in which they were acting. Now, if that manner was towards me, who was a visitor, then imagine what it's like for a black prisoner in the system who perhaps can't even retaliate without being put upon. It gives you an indication of what I'm talking about. We must not forget, and it's not an apology, that there are individual white people in the prison service who *are* working to make it better and who are trying. But they are in the minority and they have been called 'nigger-lovers', 'wog-lovers', and all that and therefore the intensity against such moves takes a very brave white person to act. Some governors, deputy governors and assistant governors are so chicken, they don't want to upset their career and therefore they don't make much noise about things they see around. It is to these few individuals in the prison service, and to those in institutions who are trying to recognise that something has to be done, that we have to give our support. So instead of being a minority they become the majority. That is why I would like to continue working in the prison service.

1. Labour Campaign for Criminal Justice.

And you've got to ask another question: If we only form (and I'll be generous) 3%, 4% of the population, why is it that in some institutions we are 30% of the wing population? Why in the young prisoners' wing in Wormwood Scrubs was there a period last year when 50% of the wing population was black? Someone has to answer the question why as such a small proportion of the total population we are such a large proportion of the prison population. Are we intrinsically criminal?, etc, etc.

In your experience in the prison services, is there any officially established training or discussion provision which deals with the existence of racism within the criminal justice system?

When I did my training, and I have spoken to some people within the last two years, there was no mention made about racism in the criminal justice system. Judges don't believe there is racism. The Lord Chancellor has never given a speech about racism in the criminal justice system. And if the Lord Chancellor hasn't, and many of the QC's haven't, then they don't want to recognise it. And if the training doesn't talk about it, how can it be tackled? We do a lot of talking about sentencing, and this and that, but I've never been to any seminar which aims to tackle the issue of racism. Except there is one coming up on April 9th in Birmingham, where we are supposed to be looking at racism. But if the structure doesn't recognise that there is racism and it is mentioned in training, then nothing will be done about it.

Apart from the work of individuals and colleagues in the criminal justice system, what do you think that groups outside (in the community) can do to combat racism in the criminal justice system?

For example, I think that community groups should keep a very close eye on some of the solicitors that we use to represent blacks, to see the quality of the service given. This might be relevant for whites too, although I am looking at it from a black point of view for now . . . I feel that waiting four or five weeks to take a statement from a defendant is wrong . . Very rarely do solicitors do some kind of back-up investigation service to check on some of the things the clients are telling them to see if they could give them better representation. I think that these things have to be looked at. I feel that the way that some barristers and solicitors, when a case has been postponed three or four weeks, still ask the court for more time to consult with their client (not over some fine point of law, or over some great discrepancy regarding a particular action) is a total misrepresentation of what justice is about.

I think that the criminal justice system should tackle racism amongst the justices. It should be a part of their course; racism awareness if possible. I don't like it but I think it's be better than nothing . . . I think that the probation service should be 'opened up' and examined in relation to racism and race relations. Racism awareness training for social workers should be looked into. We can't force judges and magistrates to go through this training but we can look at their behaviour and monitor it. I think that these are the areas we ought to be dealing with.

At the LCCJ meeting you mentioned your support for the idea of a Bill of Rights?

At the moment it is not fashionable to mention it. People think it wouldn't work. I think in some ways it would work. For example, even the tape recordings that are being tried out now are a start. We may be able to reduce the amount of 'verbals' that go on but that isn't to say you're going to wipe them out completely. People will always find a way around these things. But I think that anything that could help to tie down and restrict these particular acts that are harmful to peoples' liberty and to the criminal justice system as a whole is important . . . .

. . . I wouldn't like to push for a Bill of Rights at this stage. It hasn't been publicly discussed yet, even by the local political parties, but I now think it should become an issue on someone's political platform. The only person he did something about this and who also knows a lot about it is Joe Gormley. . . I'm moving towards the position when I'd much prefer to have a Bill of Rights. Because otherwise everything is left to the law and how it is interpreted, etc, etc. I think there should be certain clear ways in which you are protected. Now, I'm not saying that the police should be so tied up that they can't act, because we want to remove crime from the streets. But we also want something to make sure that we have a situation in which innocent people can be protected.

What chance do you think there is, in the nearish future, of black people and people from ethnic minorities becoming more involved on, say, Boards of Visitors, or becoming magistrates – because they are systems of appointment (not election), aren't they?

I think it's coming, very, very slowly. I read the other day that a member of parliament was asking what was the selection criteria for magistrates. I asked the Lord Chancellor the same question five years ago and he still hasn't given me an answer. I've got people that I've recommended and they've been turned down. I want to know on what conditions they've been turned down. I think they say it's a local committee who selects and that they try and balance the professions. But there are people who aren't even in it. Very rarely do I see the local carpenter, the local plumber, or the local shopkeeper, newsagent. If you're balancing the professions, we've got lots of teachers lots of JP's wives, lots of judges wives, barristers' wives, chairperson this, chairperson that – but we don't have many ordinary housewives, unless they come from a particular economic bracket. Yes, I think this has to be looked into.

FAMILIES OUTSIDE

by Naomi Gibson

Last year a new project was started with funding for one year to provide advice, support and practical help for prisoners' families.

In the course of responding to requests for advice from inside the prisons, SCCL workers became aware of the needs and problems of the families left on the outside. SCCL did not have enough resources to devote to providing an adequate response to the families concerned, and so, a successful application for funds to the MSC Community Programme resulted in the setting up of 'Families Outside'. Two workers are based in the SCCL offices in the centre of Glasgow.

Our aim is to offer support to any individual or family who has a partner or close relative in prison and to help in any way we can. Although the most common situation is that of a woman with children on the outside we are concerned not to exclude from our focus other family situations such as the parents of young offenders and lifers, girlfriends, co-habitees, and the relatives of women prisoners.

It became apparent during a recent Edinburgh University study on prison aftercare that the absence of a husband/parent in prison can bring families severe material and emotional hardship. A small study carried out in South East England in 1975 revealed that two out of every five men serving sentences of over four years became involved in divorce proceedings. Although it could be argued that divorce would have resulted regardless of whether the men had been imprisoned or not and that the study is too small to generalise from, there are few who would deny the difficulty of striving to sustain family relationships. In the wake of the recent disturbances at Peterhead Prison an article appeared in the *Glasgow Herald* in which Lord James Douglas Hamilton (who chairs the Scottish All-Party Penal Affairs Committee) called for the quick completion of Shotts Prison. He made the point that prisoners from West Central Scotland had made special mention of their dislike of Peterhead because they saw less of their families. In winter few women contemplate the 360-mile round trip.

Some people might have a picture in their minds of prisoners' families enjoying the good life, living off the proceeds of crime, but this stereotype bears no relation to the real life situation of the majority of families on the outside. What follows is a description of what some of these problems are, and how we could possibly intervene to help. Anyone who would like to find out more about Families Outside is invited to get in touch.

PRACTICAL ADVICE

We have been building up an advice resource geared to the needs of prisoners' families. Roughly one in a hundred single parent families on Supplementary Benefit is headed by a prisoner's wife (4,000 women and 7,000 children). Unclaimed one parent benefit in 1981 amounted to £25 million with up to 30% of entitled people not claiming. In England in 1981 the National Association of Probation Officers highlighted the fact that most of the problems that prisoners' relatives have with DHSS arose from the administration and operation of the assisted visits scheme. Families Outside would like to hear from families and will be contacting local DHSS offices to attempt to find out what the situation is like in Scotland. A recent NACRO report in December 1983 drew attention to the fact that very few families were aware that they could get help from DHSS to cover costs incurred when prisoners were granted home leaves.

Families Outside are aiming to provide a service whereby prisoners' families can be actively informed about the existence of and encouraged to claim benefits to which they are entitled. We can advise families of what to do if they have rent arrears or fuel debts and we are prepared to liaise on their behalf to come to arrangements with housing management, SSEB, Scottish Gas or HP companies. Many families whose former breadwinner is absent in prison will find themselves worse off materially. If necessary, we can help families to work out a household budget to try and prevent financial difficulties arising.

EMOTIONAL SUPPORT

Imprisonment can disrupt home life, causing a great deal of anxiety to parents and children and exacerbating any existing family problems. Circumstances may vary according to the crime committed and whether this is the first time or a recurrent feature of family life. Coming to terms with the reasons for imprisonment may be distressing. Children might find it difficult to understand and adjust to living without a parent they know still exists. Behavioural problems might result which will add to the pressures and responsibilities of single parenthood. The person in prison may feel distanced, detached and powerless to intervene.

Both workers on the project have previously worked with families under stress and we can offer long-term support to prisoners' families by visiting regularly over a period of time to help sort out more complicated interpersonal difficulties.

SELF HELP

The practical and emotional problems outlined above are always overshadowed by the stigma of imprisonment. The common assumption of guilt-by-association gives rise to unsympathetic public attitudes which can lead to isolation and loneliness for the families of prisoners. The sheer grind of existing day to day on supplementary benefit and bringing up children alone can wear a person down. Any activities outside the home which might provide some rest or relief will be limited by a tight budget and childcare responsibilities. To counteract the isolation often experienced by prisoners' families, Families Outside will give encouragement and assistance to any women who want to start self-help support groups in local areas. Women in the groups may derive emotional support from each other by sharing their problems or comparing experiences. On a practical level, social evenings, babysitting rotas, perhaps organising transport to visits or even holidays might be considered.

APPLYING PRESSURE

There hasn't been very much written about prisoners' families, but what there is usually describes them as the 'forgotten victims' of crime and their problems as the 'hidden effects' of imprisonment. Understandably some families may wish only to put the past behind them and adjust as best they can. For others, there may be areas in which they would like to see improvements. They may feel strongly about issues that affect them and wish to *do* something about them. Prisoners' families might wish to see Families Outside incorporate some of the functions of a pressure group – campaigning and lobbying and, through media coverage, informing public opinion about these, up until now, 'hidden' problems.

Families and prisoners alike are invited to contact us. Families living in the Glasgow area can write to us or drop in to our office at 146 Holland Street or get advice over the telephone (041 332 5960). Some might prefer to arrange for us to visit them in their homes.

For families outside the Glasgow area we can offer advice by telephone or letter, or put them in touch with sources of help in their own areas.

We're open Monday to Friday, 9.30am–5pm.

SUMMARY EXECUTIONS IN INDONESIA

'It is better to have a hundred dead criminals than a hundred thousand anxious citizens', was the Indonesian Minister of Justice's comment on the thousands of people killed by army death squads over the past year. Most of those killed have had distinctive tattoos indicating that they were members of youth gangs known as gali-gali. The Asian Regional Council for Human Rights estimated in December that there had been 2,000 extra-judicial killings in Indonesia, but the Chairman of the country's Legal Aid Institute believes the true figure is twice as high.

Tapol, the British Campaign for the Defence of Political Prisoners and Human Rights in Indonesia (8a Treport St, London SW18 2BP) is urging people to write to their MPs about the killings before the Inter-Governmental Group on Indonesia meets in May to decide how much aid Indonesia should receive in the coming year.

REMAND IN SCOTLAND

by Norman A. MacLellan

In 1981 the Secretary of State for Scotland directed the Inspectorate of Prisons to assess the conditions of remand prisoners in Scotland. In his first Annual Report (1981) published in August 1982, the Cheif Inspector found overcrowding to be at an unacceptable level for remand prisoners in Aberdeen, Barlinnie, Dumfries, Edinburgh and Perth prisons, and Longriggend Remand Institution (under-21s only).

The Inspectors found that overcrowding 'invariably results in a poor quality of regime and limited occupational and other facilities'. The facilities available to remand prisoners at Aberdeen, Barlinnie and Dumfries were 'barely acceptable', at Edinburgh and Perth 'below standard', and at Longriggend 'very poor'.

Longriggend came in for particularly scathing criticism in a separate report which blamed the unnecessarily restrictive regime for violent disturbances by the prisoners, who spent twenty hours a day locked in cells without chairs and were forbidden to lie on their beds during the day. Inspectors reported that they had never previously encountered such boredom among prisoners. Prison officers said they feared they were transferred to this 'Foreign Legion' outpost as a punishment.

A basic principle is surely that as remand prisoners are either technically innocent or are convicted but not yet sentenced to imprisonment, they may reasonably expect a quality of life while in custody which is at least equal to that afforded to convicted prisoners. In most instances, however, remand prisoners were being denied privileges provided for in the Prison Rules, e.g. the opportunity to work, wear their own clothing, etc. The majority also spent an unacceptable proportion of each day locked in cells.

Many governors and prison staff expressed concern about general conditions for remand prisoners but were unable, because of overcrowding, to implement privileges. The Chief Inspector, however, expressed his concern at finding 'some evidence of management and staff attitudes frustrating unnecessarily the granting of certain privileges'.

It was noted, nevertheless, that there was 'a general concern among prison staff at all levels about the detrimental effects of custody . . . and many question the grounds on which custodial remand is ordered.'

BAIL

Prison staff are not alone in wondering at the number of people still being remanded in custody in Scotland. On 26th June 1979 Malcolm Rifkind, Under Secretary of State, said in reference to the Bail etc. (Scotland) Act 1980 that reforms in the bail system proposed by the Government would mean a drop of more than 2,000 a year in the number of people committed to custody.

The Bail Act was seen by many as containing a 'whole reforming principle that bail should be granted unless there are strong reasons for refusing it'. In fact the Bail Act does not enact that principle. It deals with the form of bail, not when it should be granted. It abolished money bail, except in special circumstances, which should have reduced the numbers suffering 'the undesirable effect of unnecessary pre-trial imprisonment'.

In 1982, as in 1981, there was a significant increase in the number of persons received on remand compared with the three previous years. The average daily number of 844 was an increase of 50 over the highest figure recorded in the previous ten years. During 1982, 16,072 persons were received on remand 12,504 of whom were untried (multiply by 10 for a comparison with England and Wales). Remand prisoners made up 17.3% of the average daily prison population.

It is obvious that the expected reduction of the remand population has not occurred. The 1982 Prisons in Scotland Report stated that, 'A factor in this may have been the revised guidance on the granting of bail issued by the Lord Justice Clerk in March 1982'.

On 26 March 1982 Lord Wheatley in the High Court had found it 'desirable to set down certain guidelines in relation to the allowance or refusal of bail in the present state of the law'. He reiterated the principle that 'an accused should be granted a bail order unless there are good grounds for not granting it'. These 'good grounds' caused some controversy. They concerned the 'consideration of the public interest' and fell broadly into two categories:

1. the protection of the public;
2. the administration of justice.

Lord Wheatley stated that 'if there is a significance in the record and the nature of the charge then being preferred against an accused, the consideration of the protection of the public arises. . . . The presumption of innocence is no doubt a factor, but it does not exclude competing factors which may be more formidable in the circumstances of the case'.

He also dealt with the issue of an accused who was in a 'position of trust', e.g. already on bail or ordained to appear in respect of another offence, on probation or Community Service Order, on licence or parole, on deferred sentence. He took the view that in such circumstances bail should be refused 'unless there are cogent reasons for deciding otherwise'.

These 'guidelines', which are not legally binding but whose practical force is considerable, provoked a good deal of adverse professional comment. It was felt that recent legislation in the criminal justice field has placed an increasing emphasis on non-custodial options, while the guidelines tended to weaken this emphasis and to take a narrow view of the administration of justice.

However one views the Bail Act – as designed to reduce the number of unconvicted people in prison or merely to relieve sheriff clerks from handling money – it has not had any marked effect on conditions for the high number of accused still remanded in custody awaiting trial in Scotland each year.

LIMITS ON CUSTODY

The time untried prisoners spend in custody is limited by the '110 day rule'. The law is that 'an accused who is committed for any offence until liberated in due course of law shall not be detained by virtue of that committal for a total period of more than . . . 110 days, unless the trial of the case is commenced within that period, which failing he shall be liberated forthwith and thereafter he shall be for ever free from all question or process for that offence.'

The 110 day period can be extended by a High Court judge 'if he is satisfied that delay in the commencement of the trial is due to

a. the illness of the accused or of a judge;
b. the absence or illness of any necessary witness; or
c. any other sufficient cause which is not attributable to any fault on the part of the prosecution'.

Attempts have been made to bring a similar rule into English criminal procedure. Supporters of such a move maintain that it would relieve unnecessary strain on the prison system, increase fairness to untried prisoners by a speedier processing of their cases and ensure a more effective use of resources and time. It has to be said that the 110 day rule, although regarded as an essential protection in the Scottish system, has not prevented an increase in the numbers on remand in unacceptable conditions.

Lord Wheatley has emphasised that the time-limit was 'designed to give protection to the lieges', but the scope for discretion in the courts is so great as to diminish the strength of the safeguards intended. The case of *Gildea v. H.M. Advocate* (1983), in which a 30 day extension to the 110 day period was granted, gave rise to serious concern at the High Court's failure to interpret the relevant section of the Act strictly against a prosecutor, who had under-estimated the time a previous trial would take.

It is not suggested that this is a common occurrence, but it is worrying that a 'calculated risk' in timetabling of trials, which could lead to an accused spending more than 110 days in custody before the commencement of his trial, has been interpreted as not being 'attributable to any fault' on the part of the prosecutor'.

The situation in Scotland is, therefore, that despite widespread recognition of the unacceptable conditions in which remand prisoners are forced to live, despite the 'reforming' Bail Act and despite the 'protection' of the 110 day rule, increasing numbers of untried and therefore technically innocent people continue to spend time in custody in circumstances which have been described as 'the bottom of the penal dustbin' and 'an affront to a civilised society'.

Understanding the Scottish experience may be useful to reformers, but it does not offer any straightforward models or easy answers.

Social Control and the State (Historical and Comparitive Essays)
Stanley Cohen and Andrew Scull
Martin Robertson, Oxford 1983.

As radical lawyers or social workers many RAP members are involved in the formal social control apparatus on a daily basis. They are operating at the sharp end of the system and, unlike academics, rarely enjoy the luxury of being able to theorize about social control, or study in any detail its evolution in particular societies. Partly because of this pressure there is a tendency for workers in the field to become somewhat annoyed, or just plain bored, by what they see as self-indulgent academic pursuits, whether it be the elaboration of esoteric sociological theory or, in the case of this collection of essays, an undue preoccupation with history. Such a reaction is understandable, up to a point, even desirable. However, to completely ignore the relationship and interconnections between sociology and history is to miss much which is relevant to understnading how a group like RAP is to campaign, how it is to locate its critique. To give but one example, it was common for most sociologists of deviance in the early seventies to eschew history, even those in RAP who were committed to prison abolition. Yet, it is crucial to our appreciation of the prison to log its "creation" at the time of the industrial revolution, to comprehend it as just a moment in time, like all other punishments, historically specific with no guarantee of a future. We are unlikely to develop a meaningful strategy if the burden of day-to-day pressures blinds us to such insights.

Although the first part of *Social Control and the State* is actually about how sociologists and historians understand and employ the concept of social control, the two essays which address this question most directly are, in my view, the least successful, though for different reasons. John Mayer tends to overstate the case against historians. I am by no means convinced that the social controllers, for the most part, are as crude as he implies, nor that his catalogue of questions about the nature of social control will advance our understanding of its processes, except at the margin. To be sure, the article by Gareth Stedman-Jones is a more powerful piece of writing which makes fundamental points (see below), but it remains somewhat dated. The interplay between history and sociology over the issue of social control has moved on a good deal since the mid-seventies.

Much more up-to-date and commendable for its clarity is David Phillips' essay on *The Revisionist Social History of Crime and Law in Britain 1750-1850*. Those who have been working in this field on both primary and secondary material will surely welcome this firmly sketched critique of various approaches to social control which moves lucidly from Radzinowicz's early pioneering work through the English school of E.P. Thompson and Douglas Hay to the work fo Michael Foucault and Michael Ignatieff. In passing Philips stresses a number of important points, such as the willingness of the so-called oppressed classes to use the machinery of social control successfully in their own defence, not only against their own kind. There are no simple reductionist positions for David Philips, and rightly so. He also raises the frequently voiced criticism of Foucault and Ignatieff that in stressing the political and material basis of the modern prison both undervalue the role and ideological significance of reformers and philanthropists like Howard, Fry and Bentham. Ignatieff partly concedes this point in a subsequent essay (Chapter 5) which is particularly useful for its timely if obvious reminder that the State's formal apparatus of social control – police, courts and prisons – was (and is) concerned with only a minute proportion of deviant behaviour, that the exercise of social control is, in truth, much more widely dispersed throughout the entire social system.

This takes us conveniently to the terrain of the State. What, you might resonably ask, is there specifically about the State in this book; it does, after all, purport to be about the *State* and society? Well, in terms of traditional Marxist discourse which sees the State as an all-powerful, all-controlling central authority, the authors thus far have very little to say. Indeed, most of them seem to have abandoned the State as the Great Magician, to borrow one of Stan Cohen's more colourful phrases, and opted for more discrete geneologies of power, for micro rather than macro politics. At one level this has meant obvious gains. For example, a more detailed and specific focus has helped to point up that within the institutional and professional structures which manage deviance there is a degree of autonomy from the State. The difficulty with this emphasis, however, and here I extend David Ingleby, *Mental Health and Social Order* (Chapter 7), is that it almost vanquishes the State. The State, it seems is in danger of 'withering away'. This must be an overcorrection. Those who manage, control, even help to define, the deviant may have a significant degree of autonomy, but this is not to say that the State has virtually no authority and power over them, surely? To have exposed the Great Magician does not mean to say that he has *no* tricks up his sleeve, no power to exercise, whether one wants to define that power as a relationship or however. And to repeat one essayist, Gareth Stedman-Jones, the greatest exercise of control is the relationship between capital and labour, something which the essays up to this point touch on only tangentially or, more accurately, only implicitly. (Ingleby's essay, by the way, confirms my own feeling that the genealogy of the asylum is more difficult to trace and comprehend than the genealogy of the prison.)

Part two contains a number of interesting case studies. Unfortunately there is not enough space to mention them all, but Paul Rock's *Law, Order and Power in Late Seventeenth and Early Eighteenth Century England* is a clear, schematic essay derived mainly from secondary sources which shows that the exercise of social control at the time was a somewhat uneven and highly mediated affair, especially outside the formal agencies which were in any case mainly local. Drawing on more original material Paul Haagen's *Eighteenth Century English Society and the Debt Law* is an instructive essay. Apart from reminding us that debtors consituted the bulk of the prison population before the Industrial Revolution, Haagen also argues convincingly that an apparently "irrational" law was particularly functional to the exercise of social authority by the landed interest. What now interests me, and what Haagen understandably has little to say on this particular essay, is how and why the transition to industrial capitalism led to such a thorough-going reform that imprisonment for civil debt has now, except for maintenance arrears, been all but abandoned.

Finally, and quite out of place in this second part of the book, there is an essay by Steven Spitzer on *The Rationalisation of Crime Control in Capitalist Society*. At a highly generalised level Spitzer tries to trace the admittedly complicated links between the development of industrial capitalism and new forms of social control exercised through the modern State. He fails to make much headway here, in my view, and although he has some useful insights – say, about pockets of resistance to the State – I am forced back into line at this point with those who are anxious about The Great Magician school of analysis. My circle of critical anxiety is complete!

This is a valuable set of essays and *Social Control and the State* will find a place in most postgraduate libraries. But is should also be of interest to many non-academic RAP members since what it has to say about the processes of social control, albeit in a sometimes complicated way, is equally important for practitioners.

Mick Ryan
Thames Polytechnic

The Prison Struggle: Changing Australia's Penal System
George Zdenkowski and David Brown,
Penguin; Australia; 1982

Ian Goodger

This book arises out of the incidents which led to the institution of the Royal Commission into the Prisons of New South Wales in 1976. This was the largest and most wide-ranging public inquiry into any penal system, and took two years to produce its eventual report: The Nagle Report of 1978. The authors certainly demonstrate the reality of the cliche adopted by Justice Nagle: 'The more things change, the more they remain the same.' (p. 177) But for all the authors' concern with abstract theory and the implications of general relations and explanations, they never really attempt to explain why and how reactions manage to contain change. However, this criticism – like so many others that could be made – is foreclosed. The book's aim is not to offer abstract explanations, but to indicate to an indigenous, and penally aware, readership that the stances and theories of the perceived 'Romantic Left' might actually have something to offer in terms of enabling us to understand penal relations more adequately. The theoretical situation of specific events and relations is best when the theory is *used*. Precisely because the theory does not link with specific representations of the Nagle period of penal history the general readers must have been left with the very feelings that the authors set out to undermine: namely that the theoretical left offer only 'excessive complexity and theoreticism on the one hand and banality and reductionism on the other.' (p. 52) This aside, the basic observations and prescriptions for penal politics are both good and yet not at all surprising.

Contrary to any implications in the title, the book is about challenges from outside the prison walls. The fundamental thesis is that the context and role of the Royal Commission actually represents an example of penal relations generally in Australia, in that they are based on the threefold practices of obsessive secrecy, the suppression of prisoners' attempts to organise in increasingly adverse conditions, and the use of arbitrary authority. The strengths of these practices must lead to a realistic strategy by, and attitude in, those on the outside who support prisoners' interests. Positive strategies must accept the limitations of 'reality', and the particular vulnerability of those inside. Prisoners, then, should be wholly independent in the forms of challenge and decisions of reactions they might take, whilst the outside lobby should, and does, concentrate on the, correspondingly, threefold 'opposites' to the tenets of penal relations: Demands for communication and access; the creation of 'civil rights' to enable as much political, legal and humane equality as possible with the 'outside'; and the exploitation of such 'rights' to attempt to bring the authorities to book with increased accountability. This is *not* the prescription of two 'intellectual, Left-Wing lawyers', but what is actually happening in Australia, as well as in the States and Britain.

The early seventies saw a period of unrest within the prisons in New South Wales. The primary incidents were two disturbances at Bathurst prison in 1970 and 1972, and how these were related to the tough regimes of Grafton prison for what the authorities perceive to be 'intractables', and the prisoners as the 'indomitables' – though such counter definitions from inside never find expression. Additionally, there was also public awareness of the concentration prison Katingal, the 'electric zoo' or 'concrete tomb' that so graphically advertised the blatant inhumanity of the system.

The 1970 incident aggravated tensions between the screws and the prisoners when the former violently smashed-up a passive demonstration with firearms, with tragic consequences. Regimes were toughened, and eventually the roof blew-off Bathurst in 1972 with the virtual destruction of the prison by prisoners. Policies and practices of concentration spiralled and were condoned as horrific with the refusals of builders to labour on Katingal for a while, and the eventual recommendations that it should be abolished. Prisoners' civil actions, regarding criminal assaults upon them at Grafton, brought Nagle himself to appreciate that a regime of 'sadistic', 'daily violence' had been perpetrated upon prisoners for over thirty years. Prisoners and screws became more and more politicised and polarised.

Within this context prisoners and their supporters have learnt that one of the most constructive ways of formally challenging the authorities, and marginally off-setting dominant representations of penal relations, is to take internal prison charges and disciplinary procedures to the outside Courts in an attempt to create 'civil' room with the judiciary's powers of discretion to interpret and set precedents towards the building of a system of, and 'respect' for due process within the prisons. Here, as in many places, the authors are sombre and yet irritating. They note that this strategy of getting due process to 'jump the prison walls' has been developing in other western countries, but the authors do not ask whether this says anything about the general nature of capitalism and penality. Might this trend not be related to the fact that capitalism is beginning to exhaust its ability successfully to scapegoat 'hard core criminals' and thereby individualize 'crime', and to do so with a measure of consent from long-term prisoners in the serving of their increasingly inequitable sentences? Such an analysis might help us to see that not only is the notion of due process in the prisons a pessimistic aspiration, but to struggle for it might, to some degree, be to fall into the hands of the authorities. The pity of this book is that, with all its theory, it never makes connections.

It must be said that this is an extremely difficult book for a foreign reader to evaluate, precisely because it is written for an indigenous readership. Somehow the book sits in an uneasy vacuum; how its concerns are related to general Australian penal policy is never made clear. The possibilities for applying Marxist and Foucaultian concepts to penal policy are enormous; but these authors' only hint is towards appreciating that the crisis of control and punishment in the prisons is a banal problem in practice, offering work for lawyers but not too much else! They are right to a very large extent, but there is little point in all the theory and it must have put many readers off.

PRISON FILMS

THE EXTERMINATORS OF JOY

by Mike Nellis

Yilmaz Güney

"Everything that is told in this film recalls real events. In blood, fire and tears, in the darkness of the walls, they sought water and light. I dedicate this film to those young friends searching for water and light."

This solemn text introduces Yilmaz Guney's new film *Le Mur* (1983) which was one of several prison films shown during the 27th London Film Festival, at the National Film Theatre, in November '83. Most of Guney's films deal with some aspect of confinement and oppression in modern Turkey, but this is the first one he has directed in person since making his own escape from Imrali prison in 1981. He lives in exile in France, and is now a film-maker of some stature. He is banned from entering Britain however, because the Home Office still takes seriously the murder conviction for which he had been imprisoned, more conventional political charges having failed to hold him for any length of time.

Le Mur is a bleak and painful film to watch, with a political and artistic significance beyond its immediate reference points in Turkey. It is matched in almost every respect by Gabriel Auers' film *The Eyes of Birds* (1982), which was also shown at the Festival, and which is set in Uruguay. The prisons in these films serve similar types of governments but superficially bear little resemblance to each other: one is old and ruled by overt violence, the other is new and hides its iron fist behind an elaborate facade of brisk, bureaucratic discipline. What they have in common is a simple commitment to exterminating joy. to deadening the spirit. to stripping human beings of all capacity for hope and tenderness. They show prison in its starkest form.

Le Mur describes the build up of events which led to a riot in Dormitory Four, the children's wing of Ankara prison, in 1976. Elsewhere in the prison, in different wings and with access to different yards, are men, women and male 'politicals'. It is guarded by prison officers and armed soldiers, who drill with noisy monotony on the perimeter each morning. It is a physically squalid prison. The inmates are inadequately fed and clothed, and have to find their own sources of heat in the rubbish discarded around the site. Bathing is only allowed intermittently, but having lice is a punishable offence. The work is drudgery. Personal letters are opened, and ridiculed. Applications for transfer are encouraged, and rejected. The governer is a jolly sadist, utterly indifferent to the cruelties and humiliations inflicted on prisoners by guards, content to assure himself that the food he provides will at least keep his charges alive, but to what end he never asks. Kafir is the cruelest of the officers, and he guards the children. They particularly dread his night duties, when one of them is inevitably prodded out of his bunk, taken to Kafir's office and quietly abused. The children dream and talk of killing Kafir.

There is nothing in this scenario which has not been shown in dozens of other reformatory movies – except the motive for the riot, which is central to the film. These children did not simply want revenge, or even freedom. They wanted a transfer to a better jail. This was the most they could hope for, the limits of their aspirations in a country which has so savagely dispossessed them. And this is Guney's point; "Turkey has today been transformed by the fascist dictatorship into an immense prison. This reality could not better be brought to the attention of the whole world than by the decor of a prison"[1]. It is a restatement of the point he made in *Yol*, which shared the Grand Prix at Cannes in 1982, and in which five prisoners each discover, in the course of a weekend's leave, some of the truths about the oppressive patriarchal culture in which they have always lived, even before their imprisonment, and before the coup in 1971 established martial law.

Guney's children – he recruited young actors from the Turkish communities in France and Germany – are not wholly devoid of dignity. The moment in which four of them hatch a fantasy about escaping and becoming armed robbers is perfectly timed, and in the light of all we have seen them endure in the earlier part of the film, it comes over as an eminently sensible, even admirable decision. The process of criminalisation has never been better shown, and *Le Mur* could convince even the most determined sceptic that imprisonment is always as likely to make its victims worse, rather than deter or reform them. The tragedy of these Turkish children, however, is that they know they are dreaming and that a transfer to a better jail, perhaps one with a television, is a more realistic possibility than becoming an armed robber. The one youngster who does escape, Ziya, is quickly recaptured and confirms his fellows' worst suspicions, that outside there is "nowhere for us".

By the end of the film two children have died at the hands of the prison authorities; Saban, the youngest is shot trying to run away, while Ziya himself dies from the beating he receives after recapture. Several other youngsters are killed during the riot, as the dormitory cliques take revenge on each other. The soldiers terrorise them with gunfire and force them from their makeshift barricades with tear gas. They are kicked and hit until they cannot stand. No one even comes close to killing Kafir. The rioters are them bundled into vans and in part their wish is granted – they are transferred, albeit without regard to personal loyalties or existing friendships. One group disembark at a more conventional prison. They are photographed with number-boards round their necks, ordered to line up against a wall, to strip and bend over. A new guard, taller and more distinguished than Kafir, enters, surveys them and puts on a white rubber glove . . . This is the better jail.

There is no hope in *Le Mur*, and no glory except the fact that Guney has told the story of these sad, deserted youngsters. He says that he actually softened the facts to tell the story on screen, becouse the truth was so implausible. Perhaps so. The abiding image is still of jagged shards of glass embedded in the tops of walls, and the overall emotioal tone is one of raw inhumanity and incomprehensible cruelty. The only guard who shows any kindness to the children is sacked for incompetence and when he returns to the prison as a visitor is forcibly expelled by his old colleagues. Even the children are only kind in short, self-seeking bursts – how could they be otherwise? Some are sworn enemies. They rat on each other to the authorities. The older ones bully and despise the younger ones. How will they ever become the sort of adults who could make Turkey into a better place, who could break free from the oppressive traditions which have made the yoke of dictatorship so much harder to resist? How could they ever envisage a life that is more than mere survival?

TOTAL CONTROL

The prison in *The Eyes of Birds* is spotless and sunny in comparison to the one in Ankara, perhaps a little too much so. It is a recreation of the ironically named Libertad, a prison-cum-concentration camp in Uruguay, which houses a large variety of male dissidents – trade unionists, doctors, lawyers, teachers, artistes – who are opposed to the fascist regime. The cells are neat and clean, the hygiene is impeccable, and ostensibly the prisoners are well fed. Ball games are allowed in the grass covered yard, albeit in the shadow of gun towers. The military are as prevalent as in Ankara prison, but their approach is more low key. A distinctly Nazi ethos is generated by the juxtaposition of the flamboyantly uniformed officers and the drably overalled prisoners, all with shaven heads. Colonel Del Rio epitomises all the officers – cool, urbane and humourless. When a guard enters a cell, the prisoner leaps to attention, head bowed. When ordered to line up, groups of prisoners do so immediately, heads bowed. A stray glance can mean a spell in solitary. The prison authorities have total control over the inmates' sensory experience. They bug the phones through which they talk to visiting relatives, and use the information to inflame anxieties about a child's welfare, or a wife's infidelity. They plant informers. They stage assaults in the yard and film the ensuing pandemonium, later studying the minutiae of prisoners' reactions to the incident. They change the rules without telling the prisoners, put prisoners two to a cell but forbid them to talk, prevent them from sleeping by tapping continually on the waterpipes, or by organising night target practice at the foot of the cellblocks. They inflict torture of various kinds; one prisoner, a musician, is allowed a piano keyboard only after the guts have been removed from it. Another is hooded and pushed down a flight of stairs. Some prisoners simply vanish. Their cellmates are peremptorily told of their suicide or, like relatives, left in a bewildering state of uncertainty.

The film is fiction, "but" says Auer, "one whose smallest details correspond with reality". It was inspired by a report in the French press in June 1980 stating that after a visit to Libertad by a delegation of the International Red Cross, ten prisoners disappeared. It transpired later that they were taken to barracks elsewhere in Uruguay and tortured for between 6 – 9 months. One died. Auer gathered thirty hours of interviews with ex-prisoners and Red Cross fieldworkers before embarking on the film, which covers the period of the official visit, the means by which the authorities subvert it – bugging the supposedly confidential interview rooms, drugging a prisoner who begins to talk too much, hiding one prisoner altogether – and the conflict between members of the delegation as their suspicions grow that they are being exploited. The leader of the delegation, Claude Dubath, is a relentless humanitarian; "It took us six years to get in here", he tells a hot-headed medical colleague who wants to publicise the abuses he has discovered: "Our success depends on silence". Dubath thinks of success in terms of making individual prisoners feel better for a short time, and in terms of ensuring a second invitation to visit. He does not think of what may happen after the delegation has left, or of the possibility that the Uruguayan government may be using the good name of the Red Cross to legitimise the regime.

FORBIDDEN IMAGES

The authenticity of *The Eyes of Birds* was enhanced at the NFT by being shown alongside *Eduardo, Uruguayan* (1983), a Dutch financed documentary about an Uruguayan trade unionist and his wife. Much of it was shot clandestinely in Uruguay and Argentina, in the locations where incidents in the life of Eduardo and Adriana took place. This footage was interspersed with family snapshots and interviews with the two of them in Sweden where, like 1 in 4 Uruguayans, they now live in exile. It also contains illustrative clips from *The Eyes of Birds*, and a long distance shot of the real Libertad prison, the only known film of it that has ever been taken.

Eduardo spent two years in Libertad. He described how the prisoners were allowed to do embroidery to pass the time, but that certain motifs were forbidden, among them birds, butterflies, women, mothers and children – "anything to do with joy". Auer adds to this catalogue of visual deprivation in his film, showing how a woman in a red sweater is barred from going through the gates on visiting day. "I've told you before", the guard explains "red is not allowed". A little girl, visiting her father, has her portfolio of school paintings vetted by a female official. The ones showing birds are taken out. Next time she comes she undergoes the inspection but none of her pictures are removed. The themes are the same as before, but one of them is decorated with a series of enigmatic paired circles, in the air, on the ground, in the trees. "What are they?" asks her father. "They are the eyes of birds", she tells him. He smiles. It is the film's only moment of victory.

Both *Le Mur* and *The Eyes of Birds* were filmed on location in France, with help from Mitterand's Ministry of Culture. Sixty per cent of the finance for *The Eyes of Birds* came from French TV, with additional support from the Swiss and our own Channel 4. It has already been broadcast on TV in fifteen countries and in Switzerland, where it was shown on March '83, it initiated a heated debate on the role of the International Red Cross. Predictably, the fieldworkers tended to approve and the hierarchy to be offended. It may be Autumn '84 before it is shown on British TV, depending on whether it receives a cinematic release first.

There is a tendency, when reviewing films and books about foreign jails to fall into exoticism and to become complacent about the relative superiority of prisons in our own country. It is true that there is nothing in Britain which quite compares with either the relentless brutality of Ankara or the finely calibrated discipline of Libertad, but these films are warnings nonetheless of what any prison can become in societies which experience high levels of political repression. There is nothing in *Le Mur* or *The Eyes of Birds* which could not happen here under certain circumstances and the dubious value of humanitarian monitors like the Red Cross has already been raised on a smaller scale, in relation to Boards of Visitors, Probation Officers and the various pressure group representatives who are allowed into prisons. It is so easy to obscure truth in prison, any prison under the sun, and that is also why these films are relevant to us.

The political prisoners of Turkey and Uruguay are relevant too, as fellow participants in a worldwide struggle for justice. Once we have seen the films of such terrible eloquence we have little choice but to ask ourselves how we can live in solidarity with them. There may be little that we can do for them as individuals but if we cannot end their suffering, we can – as our only possible tribute to them – make use of it in our own political work, turning their pain to others' present and future advantage and risking pain ourselves. Both *Le Mur* and *The Eyes of Birds* are records of specific defeats and reminders of humanity's darker face. They were made in despair and anger but if they are widely seen and deeply felt and fully understood, they might add fractionally to the power of the people, in all countries, who may yet make the earth a more joyful place to live.

1. All quotations are from NFT publicity.

OBITUARY

DAVID MARKHAM

David Markham, one of RAP's sponsors, died of cancer in December 1983 at the age of 70. A member of RAP from our early days, David's interest in the fate of people in institutions found expression during the 1970s through his tireless campaigns on behalf of Soviet dissidents confined in mental hospitals and prisons. (David had himself been a prisoner in Winson Green during the second world war as a conscientious objector.) The campaign to free Vladimir Bukovsky, of which David was a central figure in this country, was successful, and through this publicity many other people contacted David about their own situations. He always stressed that state oppression was not a feature of Soviet bloc countries alone, and that our own authorities had comparable acts of incarceration to answer for.

Despite his illness, David remained an active campaigner, and towards the end of his life initiated a new defence committee on behalf of another imprisoned Soviet dissenter, Vyacheslav Chornovil. His first leaflet about Chornovil began, 'Sometimes, a quirk of circumstances leads to a personal contact being formed between two people on opposite sides of what used to be called the iron curtain . . .' David lived his life in loyalty towards the individuals he met or sought out. An anarchist since early adulthood, he believed in the freedom of the individual and in the creativity possible when people co-operate independently of the state. He saw his personal commitments through, whether to Bukovsky, Jimmy Boyle (whom he visited in Barlinnie, also making friends with the prison officer Ken Murray and his wife), Chornovil, or the many people in his family and friendship circles.

David earned his living as an actor – a career which no doubt might have been even more successful were he not known as such a radical. His favourite plays were those of Ibsen, whose sentiments he passionately loved. David and his wife, the poet and children's writer Olive Dehn, opened their country home, Lear Cottage in Sussex, to a stream of people over the years, many of whom were recovering from prison or psychiatric hospital, or from drug abuse. The beauty, humour and tolerance of their home were curative to everyone who visited it. Personal relationships were important, but so was political awareness, and their home contained both in abundance. People who met David and Olive through campaigns became firm friends with them and sometimes with each other. Their way of life was a model for all of us who are seeking fulfilment.

David never became old, and he never gave up. He lives on in the consciousness of the many people who were influenced by his energy and activity, and this includes people who would like to see the end of prisons all over the world. The life at Lear Cottage embodied what is needed if prisons are to be abolished and anti-social behaviour prevented: acceptance, nurturing, understanding, a role for everybody, and the freedom to be oneself.

Ros Kane

(continued from page 14).

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INQUESTS IN NORTHERN IRELAND

Considering the number of controversial deaths that occur there, we hear surprisingly little about coroners' inquests in Northern Ireland. Some of the reasons for this are discussed in INQUEST's submission to the International Lawyers' Inquiry into the Lethal Use of Firearms by the Security Forces, a tribunal of lawyers from the Irish Republic, England, the USA and France which is looking at the more than 100 deaths in disputed circumstances resulting from security force shootings since 1969.

Northern Ireland has gone much further than England and Wales towards implementing the recommendations made by the Brodrick Committee in 1971, so it is of great interest to compare the two systems.

INQUEST argues that the differences between the two 'all tend in one direction: they give even wider discretion to Northern Irish coroners than to their English counterparts, and even less power to their injuries.'

The most important difference is that in Northern Ireland the coroner's court cannot determine that a killing was lawful or unlawful. Formal verdicts have been replaced by 'findings', which can range from a bald statement of fact to a narrative account of the events leading to the death. This reflects Brodrick's view that an inquest should be purely a fact-finding procedure, and should not be concerned at all with questions of blame or liability.

In INQUEST's view, it is extremely important that a coroner's jury should be able to declare that the police or army have overstepped the limits of the lawful use of force. The DPP, who is clearly identified with the interests of the State, should not be able to prevent this matter from being determined by deciding not to prosecute.

However, if the jury prefers to express its conclusions in the form of detailed findings rather than a formal verdict, there is no reason why it should not be able to do so. In a few Northern Irish cases, the jury's findings have answered important questions. At the inquest on Gary English in Derry last year, the jury upheld the family's allegation that the landrover which had knocked Gary down had then been reversed over him. In the case of Julie Livingstone (d. 12 May 1981) the findings read simply: 'The victim died as a result of injuries received after being struck by a plastic bullet. We believe her to be an innocent victim.'

In some respects, the rules governing inquests in Northern Ireland are an improvement on the English ones. In Northern Ireland, the coroner *may* permit interested parties to address the jury on the facts, and has a statutory duty to ensure that a body in his/her possession does not decompose.

Copies of INQUEST's submission to the Inquiry are available from the office, price 35p post free.

(continued from page 20).

Women in Prison – campaigning for ALL prisoners demands:

11. Democratic control of the criminal justice and penal systems with: suspension of Official Secrets Act restrictions on the availability of information about prisons; public accountability of the Home Office Prison Department for its administration of the prisons; public inquiries replacing Home Office internal inquiries into the deaths of prisoners, injuries and complaints in general together with Legal Aid to enable prisoners' families to be represented at any such inquiry.

12. Reduction in the length of prison sentences.

13. Replacement of the parole system with the introduction of half-remission on all sentences. Access to a sentence review panel after serving seven years of a life sentence.

14. Increased funding for non-custodial alternatives to prisons (e.g. community service facilities, sheltered housing, alcohol recovery units) together with greater use of the existing sentencing alternatives (e.g. deferred sentence, community service order, probation with a condition of psychiatric treatment etc), with the aim of removing from prisons all who are there primarily because of drunkenness, drug dependency, mental, emotional or sexual problems, homelessness or inability to pay a fine.

15. Abolition of the censorship of prisoners' mail.

16. Abolition of the Prison Medical Service and its replacement by normal National Health Service provision coupled with abolition of the present system whereby prison officers vet and have the power to refuse prisoners' requests to see a doctor.

17. Provision of a law library in prisons so that prisoners may have access to information about their legal rights in relation to DHSS entitlement, employment, housing, marriage and divorce, child-custody, court proceedings, debt, prison rules etc.

18. Improved living and sanitary conditions together with a mandatory income entitlement to meet basic needs.

19. Non-discretionary rights to call witnesses and to full legal representation of prisoners at Visiting (internal) Court proceedings together with the abolition of the charge of 'making false and malicious allegations against an officer'.

20. A review of the existing methods of the recruitment and training of prison discipline staff.

KNOWN DEATHS IN WOMEN'S PRISONS

1974	Cummings, P.	Holloway	Fire
1975/76/77	No names – 5 women		
1978	Young	Styal	Natural Causes
1978	Haqikramul	Styal	Natural Causes
1978	Zsigmond, M.	Durham	Suicide
1980	Poole	Low Newton	Natural Causes
1981	LaPas, Y.	Holloway	Heart failure/ Asthma
1981	Julie Potter	Holloway	Fire
1982	Scott, C.	Holloway	Suicide/Accidental Death
1983	Marsh, J.	Styal	Natural causes
1984	Lucas, W.	Holloway	Unknown

INDIVIDUAL MEMBERSHIP

I wish to join the Campaign for Women in Prison

I enclose . . . . . for membership (£5) and . . . . .as a donation towards the Campaign's running costs.

I will receive an annual report and a calendar and will be informed of any open meetings of the Campaign.

Name (block caps). . . . . .
ADDRESS. . . . . .
. . . . . .
Signature . . . . . .

AFFILIATION OF ORGANISATION

The. . . . . (name of organisation) wishes to affiliate to the Campaign for Women in Prison.

I enclose £10 affiliation fee.

Our organisation is/is not willing to allow its name to be used for publicity purposes on the Campaign's list of sponsors.

NAME (block caps) . . . . . .
POSITION HELD . . . . . .
ADDRESS. . . . . .
. . . . . .
Signature . . . . . .

WOMEN ONLY MEET AT HOLLOWAY PRISON, PARKHURST ROAD, LONDON N7, from 6.00 to 7.00pm on the FIRST DAY OF EVERY MONTH. PLEASE COME AND SHOW OUR SOLIDARITY WITH THE WOMEN IN HOLLOWAY.

M.A. IN CRIME, DEVIANCE AND SOCIAL POLICY

Two years (seven terms) part-time.
Validated by the University of Lancaster.
This part-time evening course provides a critical and inter-disciplinary approach to the analysis of crime, deviance and social policy.
Course Leader: Phil Scraton

COURSE CONTENT

Year One: Crime, Deviance and Social Policy: An Introduction
This core programme of study will be taught throughout the Autumn and Spring terms and consists of the following elements:

(i) Theoretical traditions and contemporary analyses of crime and deviance.
(ii) Research methods and the critique of the 'science' of criminology.
(iii) Histories of crime, deviance and social control.

Year Two: Options
Two options to be chosen from the following:

(i) Current Issues in Criminal Justice.
(A critical analysis of the politics of law and order which focuses on the police, the courts, the prisons and special powers.)
(ii) Children and Families: Social Policy and the Law.
(An examination of the relationships between children, their families and state institutions which specialise in childhood and youth.)
(iv) Crime in an Industrialising Society.
(An evaluation of the significant changes in crime, law and punishment during the eighteenth and nineteenth centuries.)
(v) Contemporary Theoretical Debates in Crime, Deviance and Social Policy.
(The politics and political economy of race; the feminist critique of social sciences and criminology; theories of law and the state.)

APPLICATIONS

Application forms can be obtained from:
Admissions Office (MA), Edge Hill College of Higher Education, St.Helens Road, ORMSKIRK. Tel: ORM 75171
Tel: ORM 75171 ext. 269.

PUBLICATIONS RAP

All prices include postage charge

Doug Wakefield – A Thousand Days in Solitary (PROP publication, 1980). £1.40
The story of Doug Wakefield, a life sentence prisoner, and his personal account of his ordeal of 1,000 days spent in solitary confinement.

Outside Chance – The Story of the Newham Alternatives Project (1980). Liz Dronfield. £2.25
A report on a unique alternative to prison in the East End of London, founded by RAP in 1974.

Parole Reviewed – a response to the Home Office's 'Review of Parole in England and Wales' (June 1981). £0.75
A RAP discussion document and policy statement.

Out of Sight – RAP on Prisons. RAP/Christian Action, autumn 1981 £0.70
Includes articles on parole, the state of the prison system in 1981, prison cell deaths, prison medicine, dangerous offenders, sex offenders.

The Prison Film, Mike Nellis and Chris Hale (1982) £1.40
A lively and fascinating analysis of the genre of the prison film. Published to coincide with RAP's 'Prison Film Month' at the National Film Theatre, February 1982.

A Silent World – The case for accountability in the Prison System, RAP Policy Group (August 1982) £0.30
An analysis of the many ways in which our prison system is unaccountable to the public it is supposed to serve; and a policy statement and list of background reading for future consideration.

Sentencing Rapists, Jill Box-Grainger (1982) £1.30
An analysis of 'who rapes whom, and why', the effectiveness of current sentencing practice to deal with rape, and a discussion of feminist analyses of rape and their suggestions about what should be done with convicted rapists. Also, recommendations for new principles and practice in the sentencing of rapists.

ABOLITIONISTS STILL AVAILABLE:

Abolitionist No. 8 (spring 1981) £0.70
Includes articles on sex offenders in prison, sex offenders and child victims, women's prisons and women in prison, deaths in prison, alternatives for drunken offenders and a review of the prostitution laws.

Abolitionist No. 9 (autumn 1981) £0.70
Includes articles on radical probation work, the medical treatment of sex offenders, victimology and a radical perspective.

Abolitionist No. 10 (winter 1981) £0.80
Includes articles on rape, segregation and restraints in prison, psychiatric secure units, alternatives to custody.

Also, PROP (National Prisoners' Movement) 'Prison Briefing' no. 1.

Abolitionist No. 11 (spring 1982) £0.80
Includes articles on the inquiry into the Wormwood Scrubs Prison Disturbance, 1979; group therapy in prisons; prison medicine, prisons and hospitals; Scotland's political prisoners; the meaning of life (sentences).

Abolitionist No. 12 (summer/autumn 1982) £0.80
Includes articles on reparation and conciliation; drugs in prisons; prison deaths; the state of the prison reform lobby; the state of RAP.

Abolitionist No. 13 (1983 no. 1) £0.80
Includes articles on prison deaths; prison education; penal reform in crisis; Dutch penal policy; Barlinnie special unit; Matt Lygate; prison medicine; parole.

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MEMBERSHIP

Annual subscription: £6;
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